

ORIGINAL

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

UNITED STATES OF AMERICA
ex. rel., NASER AREFI, AJITH
KUMAR and PRIME
HEALTHCARE SERVICES, INC.,

Plaintiffs,

vs.

KAISER FOUNDATION HEALTH
PLAN, INC., a California
corporation; KAISER
FOUNDATION HEALTH PLAN
OF COLORADO, a Colorado
corporation; KAISER
FOUNDATION HEALTH PLAN
OF GEORGIA, INC., a Georgia
corporation; KAISER
FOUNDATION HEALTH PLAN
OF THE NORTHWEST, an Oregon
corporation; KAISER
FOUNDATION HOSPITALS, a
California corporation; SOUTHERN
CALIFORNIA PERMANENTE
MEDICAL GROUP, a California
corporation; THE PERMANENTE
MEDICAL GROUP, a California
corporation; COLORADO
PERMANENTE MEDICAL
GROUP, P.C. a Colorado
corporation; THE SOUTHEAST
PERMANENTE MEDICAL
GROUP, a Georgia

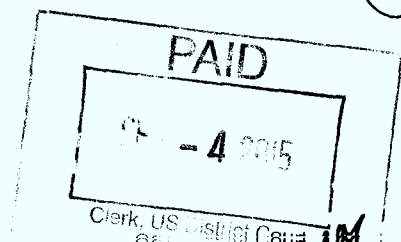
CASE NO.

CV 15-07050 RGK(JC)

**COMPLAINT FOR VIOLATIONS
OF THE FALSE CLAIMS ACT, 31
U.S.C. §§ 3729-3733**

**(FILED IN CAMERA AND UNDER
SEAL PURSUANT TO 31 U.S.C. §§
3730(B)(2))**

DEMAND FOR JURY TRIAL



corporation; HAWAII
PERMANENTE MEDICAL
GROUP, a Hawaiian corporation;
and NORTHWEST
PERMANENTE, P.C., an Oregon
corporation,

Defendants.

Plaintiff United States of America (“United States”), by and through Relators
Naser Arefi, Ajith Kumar, and Prime Healthcare Services, Inc., allege as follows:

INTRODUCTION

1. Naser Arefi, Ajith Kumar and Prime Healthcare Services, Inc.
(collectively “Relators”) bring this action on behalf of the United States of America
against Defendants Kaiser Foundation Health Plan, Inc. and its regional subsidiaries
 (“Kaiser”), Kaiser Foundation Hospitals and its regional subsidiaries (“Kaiser
Foundation Hospitals”), and the Kaiser Permanente Medical Groups (“Kaiser
Medical Groups”) (collectively the “Kaiser Defendants”) for treble damages and
penalties under the False Claims Act, 31 U.S.C. §§ 3729-3733 (“FCA”) for
submitting fraudulent claims and statements to the Medicare Part C managed care
program for risk adjustment payments based on false diagnoses of major medical
conditions (e.g., diabetes, cancer, heart disease, kidney failure, respiratory failure,
major psychiatric disorders) for tens of thousands of Medicare beneficiaries
enrolled in Kaiser’s Medicare Advantage managed care plans.

2. Between 2008 and 2013, this massive Kaiser fraud scheme has
conservatively caused the Medicare program to improperly pay more than \$14
billion (\$14,455,832,951) and possibly as high as \$26 billion in risk adjustment
overpayments to Kaiser that the plan falsely claimed reflected the additional cost of
treating patients with major medical conditions that was not adequately
compensated by the monthly fixed or “capitated” fee paid by to Kaiser for each

1 Medicare beneficiary enrolled in Kaiser's Medicare Advantage managed care plans.
2 In fact, Kaiser did not actually need or use any of this enormous amount of taxpayer
3 dollars to treat Medicare beneficiaries because the diagnoses of major medical
4 conditions reported by Kaiser to justify such risk adjustment payments were
5 fabrications based on the Kaiser Defendants' after-the-fact medical record reviews,
6 use of diagnostic criteria that find no support in medical literature or accepted
7 standards of medical or coding practice, and systemic manipulation and pressuring
8 of Kaiser physicians to cooperate with the scheme by over-diagnosing patients with
9 severe medical conditions that either did not exist at time of a face-to-face
10 physician encounter or were not being currently treated. These practices by Kaiser
11 Defendants also violated CMS's requirement that any major medical condition be
12 diagnosed, treated and documented by a physician based on a face-to-face patient
13 encounter occurring in the year in which the risk adjustment payment was claimed,
14 not on retrospective mining of clinical data that was often many years old and did
15 not reflect the Medicare enrollee's current medical condition.

16 3. While Kaiser is a Health Maintenance Organization ("HMO") that is
17 supposed to manage and improve the health of Medicare enrollees and thereby
18 reduce the cost of their care, Kaiser Defendants' fraud scheme creates a false
19 picture of a Medicare managed care population that is getting sicker and sicker and
20 has caused the cost of care per Kaiser Medicare enrollee to be approximately 70%
21 more on average than the cost of care for a traditional Medicare patient. In
22 particular, Kaiser has claimed billions of dollars in risk adjustment payments for
23 Medicare enrollees who supposedly have severe medical conditions – including
24 diabetes with chronic complications, kidney failure, vascular disease, angina,
25 polyneuropathy, malnutrition, congestive heart failure, major depression, metastatic
26 cancer and acute leukemia, septicemia, and proliferative diabetic
27 retinopathy/vitreous hemorrhage – at rates that are at least double and, in some
28 cases, more than ten times higher than the rates reported by other California

1 hospitals for traditional Medicare patients with the same conditions. This action is
2 brought to end this Kaiser fraud scheme and compel the Kaiser Defendants to
3 reimburse the federal government for the billions of dollars in risk adjustment
4 overpayments made by CMS based on their submission of false and fraudulent
5 diagnostic data to CMS regarding the medical conditions of Medicare Advantage
6 enrollees.

7 JURISDICTION AND VENUE

8 4. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331,
9 1345, and 3732. The Court may exercise personal jurisdiction over Defendants
10 under 31 U.S.C. § 3732(a) because the FCA authorizes nationwide service of
11 process, Defendants Kaiser, Kaiser Foundation Hospitals, and Southern California
12 Permanente Medical Group conduct business in this District, and the other
13 Defendants are related U.S. corporations that transact business in and have the
14 required minimal contacts with the United States.

15 5. Venue is proper in this District under 31 U.S.C. § 3732 and 28 U.S.C.
16 § 1391(b) because Defendant Southern California Permanente Medical Group's
17 principal place of business is in this District, Defendants Kaiser and Kaiser
18 Foundation Hospitals transact business in this District, and the fabrication of ICD-
19 9-CM diagnoses for Medicare Advantage giving rise to this action occurred in part
20 in this District.

21 6. Prior to filing this complaint, Relators voluntarily disclosed to the
22 United States the information on which the allegations and transactions described in
23 this action are based.

24 PARTIES

25 Plaintiff and Relators

26 7. Relators bring this action on behalf of Plaintiff United States and its
27 agency, the United States Department of Health and Human Services ("DHHS")
28 and its component, the Center for Medicare & Medicaid Services ("CMS"), which

1 administers the Medicare Program. At all times material to this action, CMS has
2 been an agency within the DHHS and has administered the Medicare Advantage
3 program, which paid benefits from funds provided by the Federal Government.
4 CMS provided Medicare benefits to qualified recipients, which included payment
5 of claims to Defendant Kaiser and the Kaiser Plans for their provision of benefits to
6 Medicare Advantage members.

7 8. Relator Naser Arefi is a former employee of Kaiser and current
8 employee of a subsidiary of Relator Prime Healthcare Services, Inc. He is a foreign
9 medical school graduate (Tehran University Of Medical Science & Health Service,
10 1997), certified clinical documentation specialist (Association of Clinical
11 Documentation Improvement Specialists (ACDIS), 2015), certified coding
12 specialist (American Health Information Management Association (AHIMA),
13 2011), and a certified professional in healthcare management (McKesson
14 Corporation, 2010). Between September 2011 and April 2014, Arefi was employed
15 as a Clinical Documentation Consultant ("CDC") by the Permanente Medical
16 Group ("TPMG"), the Kaiser Medical Group for Northern California. As a Kaiser
17 CDC, Arefi worked for the Auditing and Coding Services ("ACS") group of
18 TPMG's Encounter Information Operations ("EIO") Department, conducting data
19 mining for additional diagnoses in the electronic health records of Medicare
20 enrollees pursuant to Kaiser algorithms which he was involved in developing. As a
21 TPMG CDC, Arefi has direct insider knowledge of the Kaiser fraud scheme
22 described in this disclosure, including with respect to the Kaiser Defendants' (a) use
23 of the KP HealthConnect system to improperly steer physicians to select CMT
24 diagnosis terms mapped by the plan to HCC-qualifying ICD-9-CM diagnosis codes,
25 (b) data mining for additional ICD-9-CM diagnoses of severe medical conditions
26 not made by the treating Kaiser physician or clinically supported by the Medicare
27 enrollee's medical condition, and (c) use of physician queries to induce treating
28 physicians to add such false and after-the-fact ICD-9-CM diagnoses to the

1 Medicare enrollees' electronic charts so that Kaiser can report them as current HCC
2 conditions to CMS.

3 9. Relator Ajith Kumar is the Vice President of Reimbursement
4 Management at relator Prime Healthcare Services, Inc. and an expert in Medicare
5 coding and reimbursement. He has a medical degree from India known as an
6 M.B.B.S. (Annamalai University, India, 2000), a masters in healthcare
7 administration (University of La Verne, California, 2002), and is pursuing a masters
8 in health information management (Claremont Graduate University,
9 California). Kumar also holds the following certifications: Certified Clinical
10 Documentation Specialist (Association of Clinical Documentation Improvement
11 Specialists (ACDIS), 2008), Certified Case Manager (The Commission for Case
12 Manager Certification (CCMC), 2013), Certified Coding Specialist (American
13 Health Information Management Association (AHIMA), 2008), Certified Coding
14 Specialist – Physician Based (AHIMA, 2008), Certified Documentation
15 Improvement Practitioner (AHIMA, 2011), Certified ICD-10-CM/PCS Trainer
16 (AHIMA, 2011), Certified in Healthcare Compliance (Health Care Compliance
17 Association (HCCA), 2012), Certified Health Data Analyst (AHIMA, 2012),
18 Certified Healthcare Finance Professional (Healthcare Financial Management
19 Association (HFMA), 2012), Certified in Healthcare Privacy and Security
20 (AHIMA, 2012), Certified Healthcare Technology Specialist in
21 Clinician/Practitioner Consultant Examination and Practice Workflow and
22 Information Management Redesign (North Virginia Community College (NOVA)
23 and AHIMA, 2012), Certified HIPPA Professional (HIPPA Academy, 2010),
24 Certified Strata™ IT Fundamentals (CompTIA, 2013), Certified Healthcare IT
25 Technician (CompTIA, 2015), Certified Professional Coder (American Association
26 of Professional Coders (AAPC), 2009), Certified Professional Coder – Hospital
27 (now, Certified Outpatient Coder) (AAPC, 2009), Certified Professional in
28 Healthcare Information and Management Systems (Healthcare Information and

1 Management Systems Society (HIMSS), 2012), CPMA, Certified Professional
2 Medical Auditor (American Association of Professional Coders (AAPC), 2013),
3 Certified Professional in Healthcare Management (McKesson Corporation, 2010),
4 Certified Professional in Healthcare Quality (National Association for Healthcare
5 Quality, 2012), Health Information Technology – Implementation Manager
6 (Cypress College, 2011), Health Information Technology Professional (HIT Pro™)
7 in Clinical/ Practitioner Consultant (NOVA, AHIMA, The Office of the National
8 Coordinator for Health Information Technology (ONC), 2012), HIT Pro™ in
9 Practice Workflow & Information Management Redesign Specialist (NOVA/
10 AHIMA/ONC, 2012), Health Information Technology – Trainer (Cypress College,
11 2011), and Registered Health Information Technician (AHIMA, 2013). As an
12 expert in Medicare reimbursement and health information management, Kumar
13 performed and supervised the complex statistical analysis needed to (a) compare
14 Kaiser’s reported rates of ICD-9-CM diagnoses qualifying as HCCs with those
15 reported by traditional Medicare providers and other Medicare Advantage plans,
16 and (b) calculate the estimated amount of risk adjustment overpayments made by
17 CMS to Kaiser based on the plan’s submission of false and fabricated ICD-9-CM
18 diagnosis codes for Medicare enrollees qualifying as HCCs with those reported by
19 traditional Medicare providers and other Medicare Advantage plans.

20 10. Relator Prime Healthcare Services, Inc. (“Prime”), and the Prime
21 Healthcare Foundation own and operate 35 acute care hospitals, 15 in California
22 and 19 in ten other states (Alabama, Indiana, Kansas, Michigan, Missouri, Nevada,
23 New Jersey, Pennsylvania, Rhode Island and Texas.) A significant number of the
24 patients treated by Prime hospitals are Medicare beneficiaries covered under Parts
25 A, B and C of the program. As a result, Prime is an organization with
26 comprehensive expertise in Medicare program requirements governing services to
27 Medicare beneficiaries and the billing of those services to the Medicare program,
28 including Kaiser’s services to Medicare enrollees, some of whom are treated by

1 Prime for emergency medical conditions.

2 Defendants Kaiser and Kaiser Plans

3 11. Defendant Kaiser Foundation Health Plan, Inc. ("Kaiser") is a
4 California corporation qualified to do business in the States of California and
5 Hawaii as a health maintenance organization ("HMO") with its principal place of
6 business in Oakland in the County of Alameda, California, and is also a Medicare
7 Advantage Organization that is regulated by CMS and provides health care services
8 to Medicare beneficiaries enrolled in one of its Medicare Advantage plans. Kaiser
9 is the parent company of Defendant Kaiser Foundation Hospitals, Inc. and controls
10 the services provided to Medicare Advantage enrollees outside of California and
11 Hawaii through three regional subsidiaries (Kaiser Foundation Health Plan of
12 Colorado, Kaiser Foundation Health Plan of Georgia, Inc., and Kaiser Foundation
13 Health Plan of the Northwest) that also offer Medicare Advantage plans. Kaiser is
14 also authorized and registered under the laws of Colorado, Georgia, Oregon and
15 Washington to conduct business as a foreign corporation in those three states.

16 12. Defendant Kaiser Foundation Health Plan of Colorado is a Colorado
17 corporation qualified to do business in the State of Colorado as an HMO with its
18 principal place of business in Denver County, Colorado. This HMO is also a
19 Medicare Advantage Organization that is regulated by CMS and provides health
20 care services to Medicare beneficiaries enrolled in one of its Medicare Advantage
21 plans and, on information and belief, is a wholly owned subsidiary of Kaiser.

22 13. Defendant Kaiser Foundation Health Plan of Georgia, Inc. is a Georgia
23 corporation qualified to do business in the State of Georgia as an HMO with its
24 principal office located in Atlanta in Fulton County, Georgia. This HMO is also a
25 Medicare Advantage Organization that is regulated by CMS and provides health
26 care services to Medicare beneficiaries enrolled in one of its Medicare Advantage
27 plans and, on information and belief, is a wholly owned subsidiary of Kaiser.

28 14. Defendant Kaiser Foundation Health Plan of the Northwest is an

1 Oregon corporation qualified to do business as an HMO in the states of Oregon and
2 Washington with its principal office located in Portland in Multnomah County,
3 Oregon. This HMO is also a Medicare Advantage Organization that is regulated by
4 CMS and provides health care services to Medicare beneficiaries enrolled in one of
5 its Medicare Advantage plans and, on information and belief, is a wholly owned
6 subsidiary of Kaiser.

7 15. Defendants Kaiser Foundation Health Plan of Colorado, Kaiser
8 Foundation Health Plan of Georgia, Inc., and Kaiser Foundation Health Plan of the
9 Northwest are collectively referred to as “the Kaiser Plans.”

10 Defendant Kaiser Foundation Hospitals

11 16. Defendant Kaiser Foundation Hospitals is a California corporation
12 qualified to do business in the State of California with its principal place of
13 business in Oakland in the County of Alameda, California, that owns and operates
14 38 acute care hospitals (most in California, but including single hospitals in Hawaii
15 and Oregon) and over 600 medical offices in California, Colorado, Georgia,
16 Hawaii, Maryland, Oregon, Virginia, Washington, and the District of Columbia.

17 17. Defendant Kaiser Hospitals is a wholly owned subsidiary of
18 Defendant Kaiser and is also authorized and registered under the laws of Colorado,
19 Georgia, Hawaii, Oregon, and Washington to conduct business as a foreign
20 corporation in those states.

21 Defendants Kaiser Medical Groups

22 18. Defendant The Permanente Medical Group, Inc. is a for profit
23 California corporation qualified to do business in the State of California with its
24 principal office located in Oakland in the County of Alameda, California that
25 contracts with Kaiser to provide physicians to staff Kaiser hospitals and facilities
26 and provide professional services to Medicare Advantage enrollees in Northern
27 California.

28 19. Defendant Southern California Permanente Medical Group is a for

1 profit California corporation qualified to do business in the State of California as a
2 medical group with its principal office located in Pasadena in the County of Los
3 Angeles, California that contracts with Kaiser to provide physicians to staff Kaiser
4 hospitals and facilities and provide professional services to Medicare Advantage
5 enrollees in Southern California.

6 20. Defendant Colorado Permanente Medical Group, P.C. is a for profit
7 Colorado corporation qualified to do business in the State of Colorado as a medical
8 group with its principal office located in Denver in Denver County, Colorado that
9 contracts with Kaiser and/or Kaiser Foundation Health Plan of Colorado to provide
10 physicians to staff Kaiser hospitals and facilities and provide professional services
11 to Medicare Advantage enrollees in Colorado.

12 21. Defendant The Southeast Permanente Medical Group is a for profit
13 Georgia corporation qualified to do business in the State of Georgia as a medical
14 group with its principal office located in Atlanta in Fulton County, Georgia that
15 contracts with Kaiser and/or Kaiser Foundation Health Plan of Georgia, Inc. to
16 provide physicians to staff Kaiser hospitals and facilities and provide professional
17 services to Medicare Advantage enrollees in Georgia.

18 22. Defendant Hawaii Permanente Medical Group is a for profit Hawaiian
19 corporation qualified to do business in the State of Hawaii as a medical group with
20 its principal office located in Honolulu in Honolulu County, Hawaii that contracts
21 with Kaiser to provide physicians to staff Kaiser hospitals and facilities and provide
22 professional services to Medicare Advantage enrollees in Hawaii.

23 23. Defendant Northwest Permanente, P.C. is a for profit Oregon
24 corporation qualified to do business in the state of Oregon and Washington as a
25 medical group with its principal office located in Portland in Multnomah County,
26 Oregon that contracts with Kaiser and/or Kaiser Foundation Health Plan of the
27 Northwest to provide physicians to staff Kaiser hospitals and facilities and provide
28 professional services to Medicare Advantage enrollees in Oregon and Washington.

24. Defendants The Permanente Medical Group, Colorado Permanente Medical Group, P.C., The Southeast Permanente Medical Group, Hawaii Permanente Medical Group, and Northwest Permanente, P.C. are collectively referred to as “the Kaiser Medical Groups.”

Defendants as Co-Schemers

26. Although Kaiser, the Kaiser Plans, Kaiser Foundation Hospitals, and the Kaiser Medical Groups are regulated by different state and federal agencies and subject to different regulatory schemes and legal obligations as separate entities, they function as a single and fully integrated organization akin to a partnership, joint venture, association and/or enterprise. Kaiser owns and controls the Kaiser Plans and Kaiser Foundation Hospitals as subsidiaries, and Kaiser and the Kaiser Plans maintain agreements for the Kaiser Medical Groups to staff the Kaiser hospitals and other facilities with physicians and to provide medical management services to the Kaiser hospitals and other facilities, and also to provide professional and ancillary medical services to Kaiser members, including Medicare Advantage enrollees, inside and outside of Kaiser hospitals. In particular, Kaiser issues and implements system-wide policies and procedures for the Kaiser Plans, Kaiser Foundation Hospitals, and Kaiser Medical Groups regarding services provided to Medicare Advantage enrollees, including with respect to medical record documentation, diagnosis coding, and CMS's risk adjustment process.

1 representative, partner, joint-venturer, or co-schemer of the other Defendants, and,
2 in committing the wrongful acts and omissions described in this Complaint, was
3 acting within the course and scope of that agency, representation, partnership, joint
4 venture, or scheme. At all relevant times, each Defendant acted in concert with
5 each and every other Defendant, and intended to and did knowingly participate in
6 the events, acts, transactions practices and courses of conduct described in this
7 Complaint, and, in committing the acts and omissions described in this Complaint,
8 each Defendant caused, aided, abetted, facilitated, encouraged, authorized,
9 permitted and/or ratified the wrongful acts and omissions of the other Defendants.

10 **FACTUAL ALLEGATIONS**

11 Medicare Advantage Plans

12 28. The Medicare program is a federally run health insurance program
13 benefitting those who are age 65 and older and the disabled. Enacted in 1965, the
14 program initially consisted of Medicare Parts A and B, both insurance programs
15 that cover inpatient and outpatient services, respectively. Under Parts A and B,
16 Medicare pays providers enrolled in these fee-for-service ("FFS") programs based
17 on set fees for each service (or bundle of services) that they provide.

18 29. In 1997, Congress enacted Medicare Part C, under which Medicare
19 beneficiaries can elect to enroll in a Medicare Advantage plan, a managed care plan
20 administered by a private insurance company that has entered into a contract with
21 CMS to be a Medicare Advantage Organization ("MAO"). Medicare Advantage
22 plans provide all Medicare Parts A and B benefits, and most offer additional
23 benefits beyond those covered under the original Medicare program. Under its
24 federal contract, the MAO is paid a monthly fixed or "capitated" fee by the federal
25 government to care for each Medicare Advantage plan enrollee regardless of the
26 amount or type of health care services the member actually uses. Over the past few
27 years there has been an upward trend in enrollment in the Medicare Advantage
28 program. Currently, about 27% of Medicare beneficiaries are enrolled in Medicare

1 Advantage plans, with the majority enrolled in Medicare Advantage HMOs.

2 30. Initially, CMS's capitated payments to MAOs were based solely upon
3 enrollee demographic information, such as age and gender. In 2000, to improve the
4 accuracy and fairness of payments, and to mitigate "cream-skimming" by Medicare
5 Advantage plans (i.e., the preferential selection of the healthiest, low-cost/high
6 return enrollees), CMS began implementing a new Medicare Advantage plan
7 payment model – known as the CMS-Hierarchical Condition Category model
8 ("CMS-HCC") – that uses demographic and diagnostic information to adjust the
9 payment for each plan enrollee by assigning a "risk score" to each enrollee based
10 on the health risk of each plan enrollee and the predicted expenditures for that
11 enrollee in the following year relative to the national average. Under this CMS-
12 HCC model, CMS's risk adjustment payments to a MAO are higher for plan
13 enrollees with major medical conditions (e.g., high risk scores) and lower for
14 healthy enrollees (e.g., low risk scores). This new risk adjustment reimbursement
15 model became fully effective in 2007. *See Medicare Managed Care Manual*
16 ("MMCM"), Pub. # 100-16, ("MMCM"), Ch. 7, §§ 20, 50, 70, 70.5.1, Ch. 8, § 50.

17 31. In order to obtain Medicare risk adjustment payments, CMS requires a
18 MAO to submit accurate diagnosis codes from the International Classification of
19 Diseases, 9th Edition, Clinical Modification ("ICD-9-CM") for each condition that
20 is supported by the enrollee's medical record. Under the CMS-HHC model, the
21 primary indicator of each enrollee's health status is the ICD-9-CM diagnosis codes
22 assigned by Medicare Advantage plan providers to the enrollee and reported by the
23 MAO in Risk Adjustment Processing System ("RAPS") files submitted at least
24 quarterly to CMS through the agency's Front End Risk Adjustment System
25 (FERAS) and RAPS Databases. Healthy enrollees will have no ICD-9-CM
26 diagnoses codes, while less healthy enrollees may have multiple ICD-9-CM
27 diagnosis codes. The MAO's reported diagnosis codes drive the risk scores
28 assigned by CMS to Medicare Advantage enrollees for a particular year and those

1 risk scores in turn drive CMS's risk adjustment payments to the MAO for those
2 enrollees during the next year. *See* MMCM, Ch. 7, §§ 110, 120, 120.1.1, 120.2,
3 120.2.3, 120.2.7.

4 32. The ICD-9-CM diagnosis codes reported by the MAO to CMS must be
5 documented in the Medicare Advantage enrollee's medical record by the treating
6 physician based on a face-to-face encounter with the enrollee during the relevant
7 data collection period. The MAO's reported diagnosis codes must only describe
8 medical conditions that existed at the time of the face-to-face encounter and were
9 the clinical reason for the enrollee's treatment or management. *See* MMCM, Ch. 7,
10 §§ 40, 120, 120.1.1, 120.2.3, 130. "Medical history alone may not be used as a
11 source of diagnoses for risk adjustment purposes. For a chronic condition to be
12 accepted for risk adjustment, the patient must have a face-to-face visit each year
13 with a provider/physician who assesses and documents that condition." *See* CMS
14 Customer Service and Support Center ("CSSC") 2013 National Technical
15 Assistance, *Risk Adjustment 101 Participant Guide*, p. 17 (2013).

16 33. For example, a Medicare Advantage enrollee's prescription for an
17 angiotensin-converting enzyme ("ACE") inhibitor, alone, is insufficient by itself to
18 support a MAO's report to CMS of a diagnosis of congestive heart failure ("CHF").
19 Instead, CMS requires that the enrollee's medical record document a physician's
20 diagnosis of CHF during the data collection period. Likewise, a laboratory test
21 showing one reading of high blood sugar is not sufficient "clinical evidence" of
22 diabetes because the medical record needs to document a physician's diagnosis of
23 diabetes during the data collection period. Therefore, MAOs cannot submit
24 diagnosis codes taken from prior data collection periods (even for chronic
25 conditions) nor base them on certain types of lab results or medical records – such
26 as radiology and lab reports – because these records do not reflect a diagnosis by a
27 treating physician based on a face-to-face encounter with the Medicare Advantage
28 enrollee during the current data collection period. *See* MMCM, Ch. 7, §§ 120.1.1.

1 34. CMS groups the ICD-9-CM diagnosis codes that it receives from the
2 MAO plan into separate disease categories known as Hierarchal Condition
3 Categories or HCCs. The HCCs are based upon the type of disease and the costs
4 of treating that disease. A plan enrollee may have one or more HCCs. Based on
5 the enrollee's HCCs and demographics, CMS calculates a "risk score" for the
6 enrollee which determines the risk adjustment payment – consisting of the
7 Medicare Advantage plan's base capitation rate multiplied by the enrollee's risk
8 score – to be made to the MAO for that plan enrollee for the next year. The higher
9 an enrollee's risk score, the higher the risk adjustment payment. Generally, only
10 ICD-9-CM codes associated with major medical conditions (e.g., diabetes, cancer,
11 heart disease, kidney failure, respiratory failure, major psychiatric disorders,) will
12 result in increased CMS risk adjustment payments to the MAO. The CMS-HCC
13 models "are prospective in the sense that they use diagnosis information from a
14 base year to predict costs for the next year." *See* MMCM, Ch. 7, §§ 70, 70.1, 110,
15 Ch. 8, § 50.

16 35. By way of example, in 2009, CMS would assign an HCC for renal
17 failure (HCC 131) to a Medicare Advantage enrollee if a MAO reported ICD-9-CM
18 diagnosis code 584.5 (acute renal failure with lesion of tubular necrosis), 584.6
19 (acute renal failure with lesion of renal cortical necrosis), 584.7 (acute renal failure
20 with lesion of renal medullary (papillary)), 584.8 (acute renal failure with other
21 specified pathological lesion in kidney), 584.9 (acute renal failure unspecified),
22 585.1 (chronic kidney disease stage I), 585.2 (chronic kidney disease stage II), 585.3
23 (chronic kidney disease stage III), 585.4 (chronic kidney disease stage IV), 585.5
24 (chronic kidney disease stage V), 585.6 (end stage renal disease), 585.9 (chronic
25 kidney disease unspecified), or 586 (renal failure unspecified).

26 36. Each calendar year, CMS adjusts each Medicare Advantage plan
27 enrollee's risk score based on the array of ICD-9-CM diagnoses reported in the
28 MAO's claims during the prior year. If the provider claims for the enrollee during

1 that year do not contain the same ICD-9-CM diagnosis codes supporting the prior
2 risk score, then CMS will lower the enrollee's applicable risk score for the next
3 year. As stated in the Medicare Managed Care Manual, "Beneficiary risk scores are
4 used to adjust each plan's base payment rate for member health status. The risk
5 score is computed for each beneficiary for a given year and applied prospectively.
6 The risk score follows the beneficiary for one calendar year." *See* MMCM, Ch. 8, §
7 50.

8 37. The MAO's reporting of ICD-9-CM diagnoses for plan enrollees
9 determines what HCC codes are assigned by CMS to the Medicare Advantage plan
10 enrollees. CMS is unable to verify the accuracy of ICD-9-CM diagnosis codes
11 when the MAO submits them because the agency is not provided with supporting
12 medical documentation at the time of such submission. Instead, CMS relies upon
13 the MAO to submit accurate and medically supported ICD-9-CM codes diagnoses
14 in the first instance, and also to delete any diagnoses later determined by the MAO
15 to be incorrect because the MAO's reporting of unsupported ICD-9-CM codes for
16 major medical conditions will improperly increase CMS's risk adjustment
17 payments to the MAO.

18 38. Each year, the MAO must sign an attestation form attesting upon best
19 knowledge, information, and belief that the ICD-9-CM diagnosis codes and other
20 risk adjustment information submitted to CMS were accurate, complete, and
21 truthful. The attestation form also contains an acknowledgment by the MAO that
22 the diagnoses submitted directly affect the calculation of CMS risk adjustment
23 payments to the MAO's Medicare Advantage plans. In addition, CMS provides
24 MAOs with a one-time per calendar year opportunity to reconcile risk adjustment
25 payments. *See* 42 C.F.R. § 422.504(l).

26 The Kaiser Medicare Advantage Plans

27 39. Kaiser is the largest managed care organization in the United States
28 with 9.6 million members in nine states and the District of Columbia, although

1 approximately 7.5 million (78%) of its enrollees are in California, the state where
2 Kaiser originated and is currently headquartered. Kaiser is the organizational hub
3 of a unique single and integrated health care delivery system that delivers covered
4 services to plan members, including Medicare beneficiaries, through the Kaiser
5 Hospitals and Kaiser Medical Groups. The Kaiser organization operates
6 approximately 38 hospitals, over 600 multi-specialty medical offices with
7 diagnostic imaging, laboratory, and pharmacy services, and provides professional
8 medical services through more than 15,000 Kaiser physicians. In 2014, Kaiser
9 reported net income of \$3.1 billion on \$56.4 billion in operating revenue.

10 40. Since at least 2005, Kaiser and the Kaiser Plans have been MAOs
11 pursuant to contracts with CMS under Medicare Part C and have offered multiple
12 Medicare Advantage managed care plans to Medicare beneficiaries, including
13 individual or general enrollment plans and employer group waiver plans. Under
14 these MAO contracts, Kaiser is paid a monthly fixed or “capitated” fee by the
15 Medicare program to care for each Medicare beneficiary enrolled in one of its
16 Medicare Advantage plans. Approximately thirty percent (30%) of Kaiser’s annual
17 operating revenue comes from the Medicare Advantage program.

18 41. At all relevant times, as MAOs, Kaiser and the Kaiser Plans have
19 delivered covered health care services to HMO members and Medicare Advantage
20 enrollees through a unique Kaiser health care delivery system under which such
21 services are delivered by the Kaiser Medical Groups and Kaiser Foundation
22 Hospitals and clinics as part of a single and integrated enterprise. Kaiser acts as the
23 organizational hub of this health care delivery system and implements system-wide
24 policies and procedures governing services provided to Medicare Advantage
25 enrollees, including with respect to medical record documentation, diagnosis
26 coding, and CMS’s risk adjustment process. Kaiser Foundation Hospitals, a wholly
27 owned subsidiary of Kaiser, owns and operates all of Kaiser’s hospitals and other
28 healthcare facilities. Kaiser and the Kaiser Plans have exclusive contracts with the

1 Kaiser Medical Groups to provide physicians to staff Kaiser hospitals and facilities
2 and to provide professional medical services to Medicare Advantage plan enrollees,
3 typically in exchange for capitation payments (a fixed amount per enrollee assigned
4 to the medical group) and a share in Kaiser's annual profits.

5 Kaiser's Medicare Advantage Fraud

6 42. Between January 1, 2008 and December 31, 2013, and continuing
7 through the present, the Kaiser Defendants devised and implemented an elaborate
8 scheme to defraud the Medicare program by reporting false ICD-9-CM diagnoses to
9 CMS for Medicare Advantage plan enrollees in order to inflate the number of
10 HCCs for such enrollees and thereby fraudulently increase CMS's risk adjustment
11 payments to Kaiser and the Kaiser Plans for such enrollees. This scheme damaged,
12 and continues to damage, the United States by causing CMS to pay more in risk
13 adjustment payments to Kaiser than the amounts to which Kaiser is entitled.

14 43. As part of their scheme to report false ICD-9-CM diagnoses to CMS,
15 the Kaiser Defendants used KP HealthConnect, a health information and billing
16 system that integrates each Medicare Advantage enrollee's electronic health record
17 ("EHR") with Kaiser's electronic claims processing and billing functions across all
18 Kaiser hospitals and other facilities, to manipulate Kaiser physicians into
19 documenting more severe medical conditions for Medicare Advantage enrollees
20 that could then be reported by Kaiser to CMS for the purpose of calculating each
21 enrollee's risk score. Specifically, Kaiser Defendants mandated that plan
22 physicians document the Medicare beneficiaries' diagnoses in their EHR using a
23 proprietary and home-grown set of 28,000 diagnosis terms (double the number of
24 ICD-9-CM codes) known as Convergent Medical Terminology ("CMT"), and,
25 more colloquially, as Kaiser's "secret sauce." By divorcing CMT diagnostic terms
26 from ICD-9-CM diagnoses, Kaiser, rather than the physicians, controlled which
27 ICD-9-CM diagnoses were ultimately reported to CMS for Medicare beneficiaries
28 as the supposed equivalent of the CMT diagnostic terms actually selected by the

1 treating physicians.

2 44. In furtherance of its fraud scheme, the Kaiser Defendants also
3 improperly induced Kaiser physicians to select those CMT diagnosis terms that
4 Kaiser had “mapped” or cross-referenced to more severe ICD-9-CM codes than
5 those actually supported by the Medicare enrollee’s medical condition through a
6 variety of means. First, when a Kaiser physician selected a CMT diagnostic term
7 for a Medicare enrollee, a KP HealthConnect “workflow tool” prompted and
8 steered the physician to a more specific set of CMT diagnostic terms from which
9 the physician was required to select additional diagnostic terms, many of which had
10 been mapped by Kaiser to more severe ICD-9-CM codes that will support
11 assignment of an HCC by CMS. Through this EHR software program, the Kaiser
12 Defendants manipulated and directed the Kaiser physician’s diagnostic decisions,
13 thereby improperly increasing the probability that the physician would select a
14 CMT diagnostic term that Kaiser could “translate” into an ICD-9-CM diagnosis
15 that would then be falsely reported to CMS as an HCC severe medical condition.

16 45. In addition, the Kaiser Defendants’ coding departments employed
17 teams of documentation specialists who used KP HealthConnect to retroactively
18 “data mine” the Medicare enrollees’ electronic health records, including diagnostic
19 test results, going as far back as fifteen years for clinical signs and symptoms to
20 support additional HCCs in the current year. Known as Clinical Documentation
21 Specialists (“CDS”), these Kaiser reviewers (many of whom had foreign medical
22 licenses) were expressly tasked by Kaiser with performing reviews of the Medicare
23 enrollees’ electronic records to “accurately identify [the] presence of medical
24 conditions not diagnosed or captured in electronic health record” and any “coding
25 opportunity by using the predefined Risk Adjustment data mining parameters.”
26 These Kaiser reviewers improperly identified HCC diagnoses that were not made
27 by the treating physician at the time of the required face-to-face encounter with the
28 Medicare enrollee.

1 46. Further, the Kaiser Defendants directed their data mining teams to
2 identify such HCCs using “clinical” algorithms or decision trees that were not
3 based on generally accepted standards of medical or coding practice. Instead, the
4 risk adjustment algorithm for each HCC diagnosis directed that the diagnosis be
5 made based on signs and symptoms and diagnostic testing results in the enrollee’s
6 electronic chart that could support a multitude of other diagnoses; testing standards
7 that were more liberal than the generally accepted diagnostic standard; and
8 historical diagnoses or signs that did not show that the condition was still present
9 years later. Examples of these bogus HCC algorithms (examples of which are
10 attached as Exhibit 1) used to identify diagnoses not made by the treating physician
11 in the current year included the following:

12 a. In the case of angina pectoris (stable angina) and old myocardial
13 infarction (MI) (HCC 83), a physician query was sent if the Medicare enrollee’s
14 electronic chart showed a diagnosis of coronary artery disease (“CAD”) and an old
15 MI “look[ing] back as far as possible,” even though accepted diagnosis guidelines
16 require current chest pain on exertion or emotional stress and current CAD
17 confirmed through lab tests, ECG, chest x-ray, and/or stress ECG.

18 b. In the case of bronchiectasis (HCC 112), a physician query was
19 sent if the Medicare enrollee’s electronic chart showed an x-ray finding of
20 bronchiectasis in the current year even though Medicare coding guidelines
21 explicitly prohibit HCC coding based on radiology reports because such reports do
22 not reflect a diagnosis by the treating physician after a face-to-face encounter with
23 the enrollee.

24 c. In the case of cachexia (wasting syndrome) (HCC 21), a
25 physician query was sent if the Medicare enrollee’s electronic chart showed a
26 weight loss of greater than 5% in the past year and, in the past three years, a Body
27 Mass Index (“BMI”) of between 18.5 and 20 and a diagnosis of HIV/Aids, cancer,
28 chronic obstructive pulmonary disease (“COPD”), rheumatoid arthritis, heart

1 failure, end stage liver disease, end stage renal disease, chronic kidney disease,
2 tuberculosis or Alzheimers/dementia even though a BMI of 18.5 to 20 is a healthy
3 weight and a diagnosis of cachexia requires a current (not past) chronic illness, as
4 well as a number of other symptoms – such as reduced muscle strength, fatigue,
5 anorexia, low fat-free mass index, and abnormal biochemistry (e.g., inflammation,
6 anemia, low albumin) – in order to distinguish wasting syndrome from other weight
7 loss caused by starvation, age-related loss of muscle mass, primary depression,
8 malnutrition, malabsorption and hyperthyroidism.

9 d. In the case of chronic hepatitis (HCC 27 or 29), a physician
10 query was sent even if the Medicare enrollee's electronic chart showed no hepatitis
11 diagnosis or treatment, but included a positive or reactive quantitative or qualitative
12 hepatitis test anytime or "any" positive or reactive hepatitis genotype test "looking
13 back as far as possible," even if the patient had not undergone any monitoring or
14 treatment for "active" hepatitis after such positive/reactive test, and even though a
15 positive result by itself is typically insufficient to diagnose chronic hepatitis
16 because tests detect antibodies from old hepatitis cases that no longer cause any
17 actual liver inflammation.

18 e. In the case of chronic kidney disease ("CKD"), Stages 3, 4 and 5
19 (HCCs 131 or 138, 134-137), a physician query was sent if the Medicare enrollee's
20 electronic chart included an abnormal glomerular filtration rate ("GFR") for two
21 consecutive tests separated by three months at any time in the last three years, even
22 though abnormal GFR results, without kidney damage, may be caused by
23 conditions other than CKD (e.g., vegetarian diets, unilateral nephrectomy,
24 extracellular fluid volume depletion, and systemic illnesses associated with reduced
25 kidney perfusion, such as heart failure and cirrhosis), and kidney function (and
26 GFR) can fluctuate, be temporarily impaired, and improve substantially over a
27 period of three years.

28 f. In the case of diabetes with chronic kidney failure (HCC 18 or

1 15, 16, 18), a physician query was sent if the Medicare enrollee's electronic chart
2 showed a diagnosis of type 2 diabetes in the past three years along with two
3 positive proteinuria or microalbuminuria lab tests at any time during the past three
4 years even though the patient's kidney function could have improved during this
5 period.

6 g. In the case of dyslipidemia, mixed hyperlipidemia and
7 hyperlipidemia (HCC 16 or 18), a physician query was sent if the Medicare
8 enrollee's electronic chart included laboratory test results showing abnormal levels
9 of low density lipoprotein ("LDL") or high-density lipoprotein ("HDL") cholesterol
10 at any time in the past even though such values often fluctuate dramatically day-to-
11 day, month-to-month and year-to-year depending on the patient's diet and lifestyle
12 and do not necessarily indicate any cholesterol disorder.

13 h. In the case of major depression (HCC 55 or 58), a physician
14 query was sent if the Medicare enrollee's electronic chart showed a diagnosis of
15 depression within the past three years and the use of an anti-depressant within the
16 past 12 months, even if the patient was not taking the medication currently and any
17 depression had been resolved and was not being actively treated.

18 i. In the case of major obesity (HCC 22), a physician query was
19 sent if the Medicare enrollee's electronic chart included a BMI between 35.0 and
20 39.9 at the most recent visit in the last three years and a diagnosis in the last three
21 years of diabetes, CAD, sleep apnea, hypertension, hyperlipidemia, or
22 osteoarthritis, even though HCC 22 required a current BMI of greater than 40 and a
23 person may have lost significant weight loss in the last three years.

24 j. In the case of respiratory failure (HCC 79 or 84), a physician
25 query was sent if the Medicare enrollee's electronic chart documented that the
26 patient was on oxygen for two consecutive months as far back as three years even
27 though such oxygen may have been used to treat other respiratory conditions such
28 as pneumonia, acute bronchitis, and COPD, and despite the fact that a diagnosis of

1 respiratory failure is generally only made when arterial blood gas tests show that
2 the arterial Pa O₂ has fallen below 60 mm Hg (hypoxemia) and/or the arterial Pa
3 CO₂ has risen above 50 mm Hg (hypercapnia).

4 47. Since HCC diagnoses for Medicare enrollees made by persons other
5 than the treating physician are not reportable to CMS, the Kaiser Defendants
6 directed their CDSs to send leading and coercive “physician queries” to improperly
7 induce the treating physician to change the electronic record of the Medicare
8 enrollee’s most recent face-to face encounter by adding or substituting the HCC
9 diagnosis identified by the CDSs as a current medical condition that is being
10 actively treated by the physician. If a Kaiser physician failed to respond or did not
11 agree with the query’s suggestion of an HCC diagnosis, the Kaiser data mining
12 team identified the query in the KP HealthConnect system as a “stop prompt,”
13 conducted a second review of the Medicare enrollee’s electronic record to find
14 additional support for the query’s suggested HCC diagnosis, and then sent a repeat
15 query to the Kaiser physician. If the Kaiser physician again refused to follow the
16 query’s suggested HCC diagnosis, the query was then usually escalated to the
17 Kaiser medical director overseeing that particular Kaiser physician for further
18 review.

19 76. In order to satisfy CMS’s requirement that HCCs be based on a face-
20 to-face physician encounter, the Kaiser Defendants also encouraged Medicare
21 enrollees to visit a physician for an “annual check-up” before the end of each fiscal
22 year so that more HCCs can be added to the enrollee’s record for that year. If
23 Medicare enrollees declined to come to a Kaiser facility, the Kaiser Defendants
24 offered to send a physician to the enrollee’s home to conduct this check-up. The
25 primary purpose of these annual “check-ups” for Medicare enrollees was to provide
26 an unnecessary patient encounter during the data collection period that would
27 permit the Kaiser Defendants to add HCC conditions to the enrollees’ records so
28 that Kaiser could report them to CMS and increase its risk adjustment payments.

1 77. As further inducement for Kaiser physicians to document CMT
2 diagnostic terms mapping to HCCs, the Kaiser Medical Groups also paid bonuses
3 to Kaiser physicians based, in part, on the quantity of HCC-qualifying diagnoses
4 that they ended up documenting for Medicare enrollees regardless of whether such
5 diagnoses were in fact supported by the enrollees' medical conditions.

6 78. In furtherance of their Medicare Advantage diagnosis upcoding
7 scheme, the Kaiser Defendants also implemented certain policies in California to
8 ensure that Medicare Advantage enrollees would be primarily treated by Kaiser
9 physicians so that their diagnoses could be manipulated and upcoded as described
10 above, including the following:

11 a. Although Kaiser is required to cover emergency services
12 provided to Medicare Advantage enrollees by non-Kaiser hospitals, the plan entered
13 into contracts with ambulance providers (including the Los Angeles Fire
14 Department ("LAFD")) under which Kaiser paid such providers to by-pass the
15 nearest hospital emergency room and transport Medicare Advantage enrollees to a
16 Kaiser hospital. Since 1998, Kaiser had contracts with LAFD under which the plan
17 paid LAFD a fee ranging from \$100 to \$135 for each Kaiser patient transported by
18 ambulance more than three miles to a Kaiser hospital, rather than to the nearest
19 emergency room. Between 1998 and 2012, Kaiser has paid LAFD \$5.2 million
20 dollars for transporting over 40,000 Kaiser patients past the nearest emergency
21 room to a Kaiser hospital; and

22 b. In addition, if a Medicare Advantage enrollee sought treatment
23 for an emergency medical condition at a non-Kaiser hospital in California, Kaiser
24 would improperly pressure the hospital to transfer the enrollee to Kaiser hospital
25 even when the non-Kaiser treating physician had determined that the enrollee was
26 not stable for transfer and could be medically harmed by the transfer.

Kaiser's Medicare Advantage Enrollees' Astonishingly High
Rates of Severe Medical Conditions Supporting HCCs

79. While Kaiser and the Kaiser Plans are HMOs tasked with the ostensible goal of keeping its Medicare enrollees healthy, the Kaiser Defendants' scheme to fraudulently obtain Medicare risk adjustment payments resulted in astonishingly high rates of HCC diagnoses being reported by the plans for their Medicare enrollees to CMS and a dramatic increase in the incidence of such HCC conditions compared to traditional Medicare patients after CMS fully implemented its CMS-HCC model in 2007. Kaiser's medically unexplainable rates of serious medical conditions – especially those resulting in high-value HCCs – for its Medicare enrollee population in California included the following:

k. Between 2008 and 2013, Kaiser Medicare enrollees were diagnosed with proliferative diabetic retinopathy and vitreous hemorrhage (HCC 119 or 122) at an average rate that was 3,427% that of traditional Medicare.

l. Between 2008 and 2013, Kaiser Medicare enrollees were diagnosed with diabetes with chronic complications (HCC 15, 16 and 18) at an average rate that was 497% that of traditional Medicare. This Kaiser statistic is particularly unexplainable because if the HMO was appropriately managing patients with diabetes mellitus, those patients are less likely to develop complications, let alone chronic ones. In addition, Kaiser has reported far fewer Medicare enrollees with diabetes without complication (under the less financially lucrative HCC 19) compared to traditional Medicare (44% less), confirming that the plan has been upcoding its Medicare diabetes patients to higher HCCs.

m. Between 2008 and 2013, Kaiser Medicare enrollees were diagnosed with angina pectoris (HCC 83 or 88) at an average rate that was 324% that of traditional Medicare, with a dramatic 637% increase in 2012, the year that CMS increased the weight of this HCC from 0.290 to 0.366.

n. Between 2008 and 2013, Kaiser Medicare enrollees were

1 diagnosed with vascular disease (HCC 105 or 108) at a steadily increasing rate that
2 was on average 315% that of traditional Medicare.

3 o. Between 2008 and 2013, Kaiser Medicare enrollees were
4 diagnosed with major depressive, bipolar, and paranoid disorders (HCC 55 or 58) at
5 an ever-increasing rate that was on average 188% that of traditional Medicare.

6 p. Between 2008 and 2013, Kaiser Medicare enrollees were
7 diagnosed with malnutrition (HCC 21) at rate that was on average 182% that of
8 traditional Medicare.

9 q. Between 2008 and 2013, Kaiser Medicare enrollees were
10 diagnosed with septicemia (HCC 2) at an average rate that was 113% that of
11 traditional Medicare. *See* Analysis of Kaiser & Traditional Medicare HCCs (2008 -
12 2013) After Applying National Factor, attached as Exhibit 3; Analysis of Kaiser &
13 Traditional Medicare HCCs (2008 - 2013) Minus Associated Disease Groups,
14 attached as Exhibit 4.

15 80. The Kaiser Defendants' fraud scheme is also reflected in Kaiser's
16 under-reporting of HCCs (as would be expected for HMO patients) for serious
17 medical conditions which are difficult to fabricate because they have definitive
18 physical signs and symptoms that are generally not subject to physician
19 interpretation or debate. By way of examples, between 2008 and 2013, when
20 compared to traditional Medicare patients, Kaiser Medicare enrollees in California
21 were less frequently diagnosed with schizophrenia (HCC 54 or 57, at 85% less);
22 cystic fibrosis (HCC 107 or 110, at 71% less); severe head injury (HCC 154 or 156,
23 at 61% less); extensive third-degree burns (HCC 150 or 162, at 60% less);
24 respiratory dependence/tracheostomy status (HCC 77 or 82, at 42% less);
25 quadriplegia (HCC 67 or 70, at 43% less); diabetes without complication (HCC 19,
26 at 44% less); cerebral palsy and other paralytic syndromes (HCC 101 or 74, at 45%
27 less); HIV/AIDS (HCC 1, at 47% less); artificial openings for feeding or
28 elimination (HCC 176 or 188, at 37% less); seizure disorders and convulsions

(HCC 74 or 79, at 31% less); and coma, brain compression/anoxic damage (HCC 75 or 80, at 25% less).

81. Kaiser's fraudulent gaming of the HCC system is also reflected by the massive and medically unexplainable increase in severe medical conditions reported for Kaiser Medicare enrollees after CMS implemented the HCC model. For example, between 2008 and 2013, the number of Kaiser enrollees diagnosed with vascular disease increased by a jaw-dropping 218%. Likewise, during the same period, Kaiser reported a 216% increase in enrollees with protein-calorie malnutrition, a 132% increase in enrollees with septicemia and sepsis, a 122% increase in enrollees with coma and brain compression, and a 115% increase in enrollees with immunity disorders. In addition, Medicare beneficiaries with diabetes who enrolled with Kaiser developed complications, including rare complications like diabetic retinopathy and vitreous hemorrhage (bleeding in eye), at a rate five times higher than if they had stayed in traditional Medicare. These enormous spikes in diagnosis rates for severe medical conditions paints an entirely implausible picture of Kaiser enrollees getting sicker and sicker even though the HMO's whole model is designed to reduce health care costs by actively managing the Medicare enrollees so that their health improves, rather than getting worse at rates more associated with an epidemic.

82. By fraudulently increasing the HCCs assigned to its Medicare enrollees, the Kaiser Defendants increased patients' risk scores and profiles and thereby caused CMS to make incorrect higher risk adjustment payments to Kaiser for such enrollees. In addition, because the HCCs were not medically supported, the enrollees "recovered" from such HCCs faster than usual, resulting in higher favorable quality of care indices – including decreased mortality and complication rates – that falsely suggested that Kaiser and the Kaiser were successfully treating serious medical conditions more effectively than other Medicare Advantage plans. As an ironic result, Kaiser's fraud scheme significantly contributed to its receipt of

1 CMS's highest "5 Star" rating for a Medicare Advantage plan, which also caused
2 Kaiser to be paid annual bonuses (\$380 million in 2012) that the HMO did not
3 deserve.

4 83. On or about September 5, 2008, March 6, 2009, September 4, 2009,
5 January 31, 2010, March 5, 2010, September 3, 2010, January 31, 2011, March 4,
6 2011, September 2, 2011, January 31, 2012, March 2, 2012, September 7, 2012,
7 January 31, 2013, March 1, 2013, September 6, 2013, January 31, 2014, and March
8 7, 2014, the Kaiser Defendants submitted, or caused to be submitted, false claims
9 to CMS for risk adjustment payments – consisting of RAPS files submitted to CMS
10 by Kaiser and the Kaiser Plans through the agency's FERAS and RAPS Databases
11 – that contained false ICD-9-CM diagnoses for Kaiser Medicare Advantage
12 enrollees supporting risk adjustment payments by CMS for such enrollees.

13 84. In 2010, 2011, 2012, and 2013, 2014, and 2015, the Kaiser Defendants
14 submitted, or caused to be submitted, false statements to CMS – consisting of an
15 annual written "Attestation of Risk Adjustment Data Information Relating to CMS
16 Payment to a Medicare Advantage Organization" submitted by Kaiser and the
17 Kaiser Plans to CMS – that falsely certified and attested that the risk adjustment
18 information, including ICD-9-CM diagnoses, submitted by Kaiser for the year
19 covered by the attestation (e.g., the 2015 attestation covered the RAP data for dates
20 of service between January 1, 2013 and December 31, 2013) was accurate,
21 complete, and truthful when, in truth and fact, the Kaiser RAP data for each year
22 contained false ICD-9-CM diagnoses for Medicare Advantage enrollees supporting
23 risk adjustment payments by CMS for such enrollees.

24 CMS's Risk Adjustment Overpayments to Kaiser

25 85. Between 2008 and 2013, the Kaiser Defendants systemically assigned
26 more severe ICD-9-CM diagnosis codes to Medicare enrollees than supported by
27 the enrollees' actual medical conditions and reported such false codes in quarterly
28 RAPS files to CMS in order to cause CMS to incorrectly assign HCCs or higher

1 HCCs to such enrollees. Through this fraud scheme, the Kaiser Defendants caused
2 CMS to make incorrect risk adjustment payments to Kaiser and the Kaiser Plans for
3 such Medicare enrollees totaling more than fourteen billion dollars.

4 86. Relators calculated the massive loss caused by Kaiser Defendants'
5 fraud scheme based on the variance between Kaiser's reported number of Medicare
6 enrollees with certain HCC medical conditions and the incidence of such conditions
7 for traditional Medicare patients in California hospitals. The specific methodology
8 is described in the Appendix attached as Exhibit 2. By way of examples, Kaiser's
9 false HCC reporting included estimated Medicare overpayments for its inpatient
10 enrollees in California for the following HCCs:

11 a. Approximately \$717,284,358.41 in overpayments for diabetes
12 with chronic complication (HCC 15,16 and 18) incorrectly assigned by Kaiser to
13 Medicare enrollees at an average rate that was 497% of that reported by other
14 California hospitals for traditional Medicare patients with the same medical
15 condition;

16 b. Approximately \$286,099,138.28 for renal failure (HCCs
17 131,135, 136, 137, 138, 139 and 140) incorrectly assigned by Kaiser to Medicare
18 enrollees at an average rate that was 136% of that reported by other California
19 hospitals for traditional Medicare patients with the same medical condition;

20 c. Approximately \$241,599,578.86 for vascular disease and
21 complications (HCCs 104 and 105, or 107 and 108) incorrectly assigned by Kaiser
22 to Medicare enrollees at an average rate that was 225% of that reported by other
23 California hospitals for traditional Medicare patients with the same medical
24 condition;

25 d. Approximately \$158,184,582.50 for angina pectoris (HCC 83 or
26 88) incorrectly assigned by Kaiser to Medicare enrollees at an average rate that was
27 324% of that reported by other California hospitals for traditional Medicare patients
28 with the same medical condition;

1 e. Approximately \$173,176,160.18 for polyneuropathy (HCC 71 or
2 75) incorrectly assigned by Kaiser to Medicare enrollees at an average rate that was
3 274% of that reported by other California hospitals for traditional Medicare patients
4 with the same medical condition;

5 f. Approximately \$149,556,111.63 for protein-calorie malnutrition
6 (HCC 21) incorrectly assigned by Kaiser to Medicare enrollees at an average rate
7 that was 182% of that reported by other California hospitals for traditional
8 Medicare patients with the same medical condition;

9 g. Approximately \$131,551,146.90 for congestive heart failure
10 (HCC 80 or 85) incorrectly assigned by Kaiser to Medicare enrollees at an average
11 rate that was 122% of that reported by other California hospitals for traditional
12 Medicare patients with the same medical condition.

13 h. Approximately \$151,213,947.82 for major depressive, bipolar,
14 and paranoid disorders (HCC 55 or 58) incorrectly assigned by Kaiser to Medicare
15 enrollees at an average rate that was 188% of that reported by other California
16 hospitals for traditional Medicare patients with the same medical condition.

17 i. Approximately \$93,213,680.84 for metastatic cancer and acute
18 leukemia (HCC 7 or 8) incorrectly assigned by Kaiser to Medicare enrollees at an
19 average rate that was 128% of that reported by other California hospitals for
20 traditional Medicare patients with the same medical condition;

21 j. Approximately \$88,903,003.18 for septicemia, sepsis, and
22 systemic inflammatory response syndrome/shock (HCC 2) incorrectly assigned by
23 Kaiser to Medicare enrollees at an average rate that was 113% of that reported by
24 other California hospitals for traditional Medicare patients with the same medical
25 condition; and

26 k. Approximately \$55,874,976.41 for proliferative diabetic
27 retinopathy and vitreous hemorrhage (HCC 119 or 122) incorrectly assigned by
28 Kaiser to Medicare enrollees at an average rate that was a staggering 3,427% of that

1 reported by other California hospitals for traditional Medicare patients with the
2 same medical condition.

3 87. Including these and the other HCCs falsely reported by Kaiser
4 and the Kaiser Plans results in estimated risk adjustment overpayments of
5 \$14,455,832,951. CMS's \$14 billion overpayment to Kaiser and the Kaiser Plans is
6 a low estimate because of the highly conservative treatment of the HCC variance
7 data by Relators and, additionally, because only data from Kaiser's Medicare
8 enrollees in California was analyzed by Relators. Specifically, between 2008 and
9 2013, the difference between Kaiser's average per patient payment (\$1,157.19) and
10 traditional Medicare's average per patient payment (\$698.69) translates into an
11 estimated overpayment of \$26,726,510, 919, a substantially higher figure than
12 Relators' more conservative loss calculation based on HCC variances. *See*
13 *Summary of Kaiser HCC Overpayments*, attached as Exhibit 5.

14 **FIRST CAUSE OF ACTION**

15 **FALSE CLAIMS ACT: PRESENTATION OF FALSE CLAIMS**

16 **(31 U.S.C. § 3729(A)(1))**

17 **(Against All Defendants)**

18 88. Plaintiff United States hereby repleads and incorporates by reference
19 each and every allegation contained in paragraphs 1 through 87, above, as though
20 fully set forth in this paragraph.

21 89. Between January 1, 2008 and the present, Defendants knowingly
22 presented or caused to be presented false or fraudulent claims for Medicare
23 Advantage risk adjustment payments to the United States.

24 90. By virtue of the false or fraudulent claims made by Defendants, the
25 United States suffered damages and therefore is entitled to treble damages under the
26 False Claims Act, to be determined at trial, plus a civil penalty for each violation.
27
28

SECOND CAUSE OF ACTION
FALSE CLAIMS ACT: MAKING OR USING FALSE
RECORD OR STATEMENT
(31 U.S.C. § 3729(A)(2))
(Against All Defendants)

91. Plaintiff United States hereby repleads and incorporates by reference each and every allegation contained in paragraphs 1 through 90, above, as though fully set forth in this paragraph.

92. Between January 1, 2008 and the present, Defendants knowingly made, used or caused to be made or used, false records or statements, including false RAPS files and annual "Attestations of Risk Adjustment Data Information Relating to CMS Payment to a Medicare Advantage Organization," to get the United States to pay false and fraudulent claims for Medicare Advantage risk adjustment payments.

93. By virtue of the false or fraudulent records or statements made by Defendants, the United States suffered damages and therefore is entitled to treble damages under the False Claims Act, to be determined at trial, plus a civil penalty for each violation.

PRAYER FOR RELIEF

WHEREFORE, Relator, on behalf of the United States, demands and prays that judgment be entered in favor of the United States against Defendants, as follows:

- a. Defendants pay an amount equal to three times the amount of damages the United States has sustained because of Defendants' actions, plus a civil penalty against Defendants of not less than \$5,500 and not more than \$11,000 for each violation of 31 U.S.C. § 3729;
- b. Relator be awarded the maximum amount allowed pursuant to 31U.S.C. § 3730(d);

- 1 c. Defendants cease and desist from violating the False Claims Act, 31
2 U.S.C. § 3729, *et seq.*;
- 3 d. Relator be awarded all costs of this action, including attorneys' fees,
4 expenses, and costs pursuant to 31 U.S.C. § 3730(d); and
- 5 e. The United States and Relator be granted all such other relief as the
6 Court deems just and proper.

7
8 DATED: September 4, 2015

Respectfully submitted,

9 MARK S. HARDIMAN
10 NELSON HARDIMAN LLP.

11 By: 
12

Mark S. Hardiman

13 Attorneys for Relators
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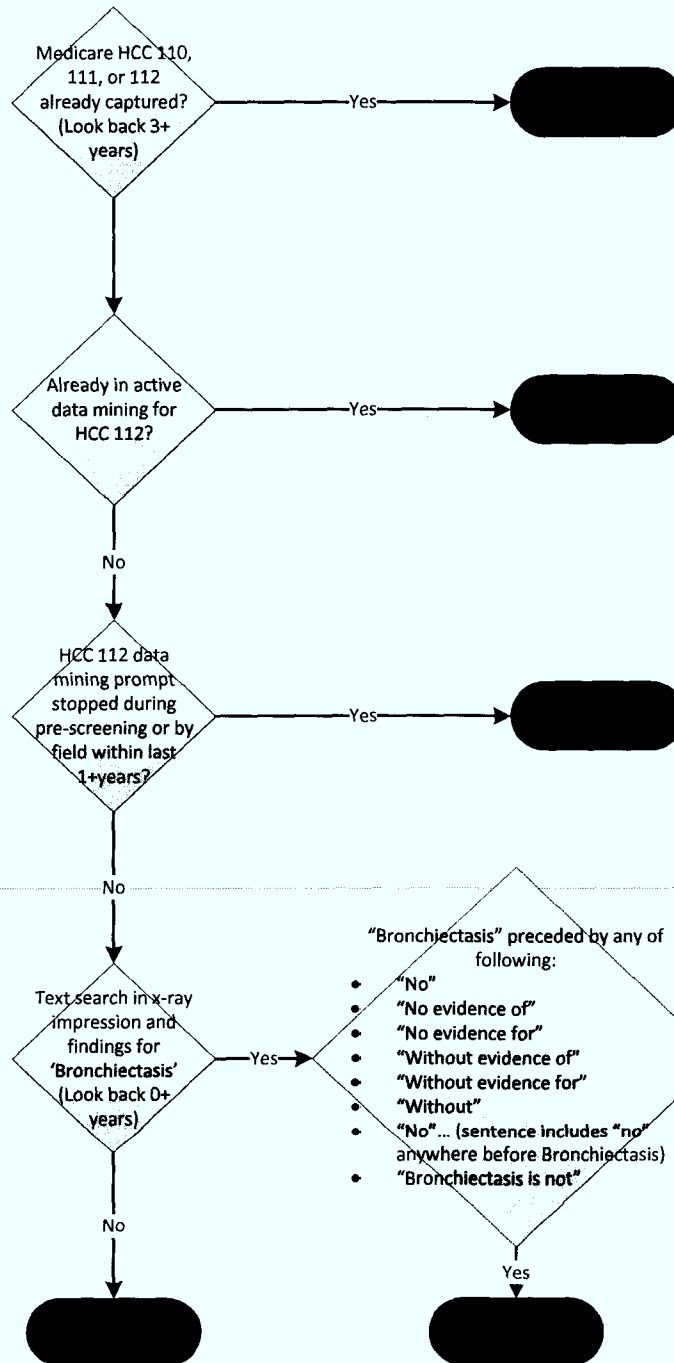
EXHIBIT

1

☐ Pre-screened
☒ Not pre-screened
☐ Partially pre-screened

BRONCHIECTASIS FINAL v.2- 10/28/13

☒ CMS HCC 112
☐ HHS
☐ CalPERS



Changes since Previous Version:

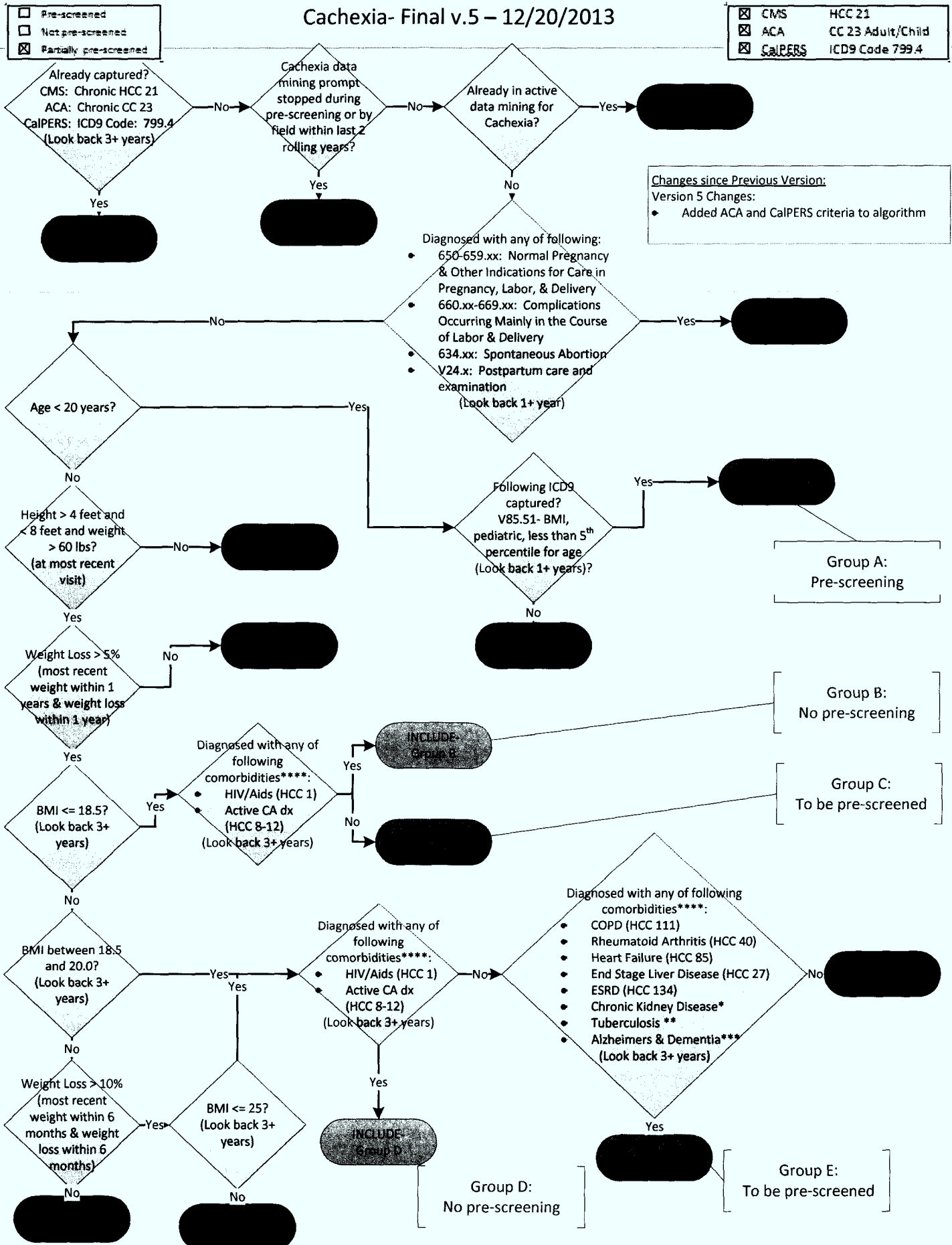
Version 2 Changes:

- Modified look back period to 0+ years (January of current year).
- Added additional exclusion criteria (text parsing)

Bronchiectasis Diagnoses (HCC 112):

4940 Bronchiectas w/o ac exac
 4941 Bronchiectasis w ac exac

Cachexia- Final v.5 – 12/20/2013



This purpose of this algorithm is to identify patients who may have clinical evidence of Cachexia but do not already have a Cachexia diagnosis or Protein Calorie Malnutrition diagnosis (for CMS of ACA) captured. This algorithm is not intended for training to the clinical diagnosis criteria for the condition.

*CKD / Renal Failure ICD9 Codes:

403.01 Mal hyp kid w cr kid V
403.11 Ben hyp kid w cr kid V
403.91 Hyp kid NOS w cr kid V
404.02 Mal hy ht/kd st V w/o hf
404.03 Mal hyp ht/kd stg V w hf
404.12 Ben hy ht/kd st V w/o hf
404.13 Ben hyp ht/kd stg V w hf
404.92 Hy ht/kd NOS st V w/o hf
404.93 Hyp ht/kd NOS st V w hf
584.5 Ac kidney fail, tubr necr
584.6 Ac kidney fail, cort necr
584.7 Ac kidney fail, medu necr
584.8 Acute kidney failure NEC
584.9 Acute kidney failure NOS
585.1 Chro kidney dis stage I
585.2 Chro kidney dis stage II
585.3 Chr kidney dis stage III
585.4 Chr kidney dis stage IV
585.5 Chron kidney dis stage
V585.6 End stage renal disease
585.9 Chronic kidney dis NOS
586 Renal failure NOS
753.14 Polycyst kid-autosom rec

**Tuberculosis ICD9 Codes:

010.0 Primary tuberculous infection
010.1 Tuberculous pleurisy in primary
progressive tuberculosis
010.8 Other primary progressive tuberculosis
010.9 Primary tuberculous infection,
unspecified
011 Pulmonary tuberculosis
011.0 Tuberculosis of lung, infiltrative
011.1 Tuberculosis of lung, nodular
011.2 Tuberculosis of lung with cavitation
012 Other respiratory tuberculosis
013 Tuberculosis of meninges and central
nervous system
014 Tuberculosis of intestines, peritoneum, and
mesenteric glands
015 Tuberculosis of bones and joints
016 Tuberculosis of genitourinary system
017 Tuberculosis of other organs
018 Miliary tuberculosis
018.8 Other specified miliary tuberculosis
018.9 Miliary tuberculosis, unspecified

***Dementia ICD9
Codes:

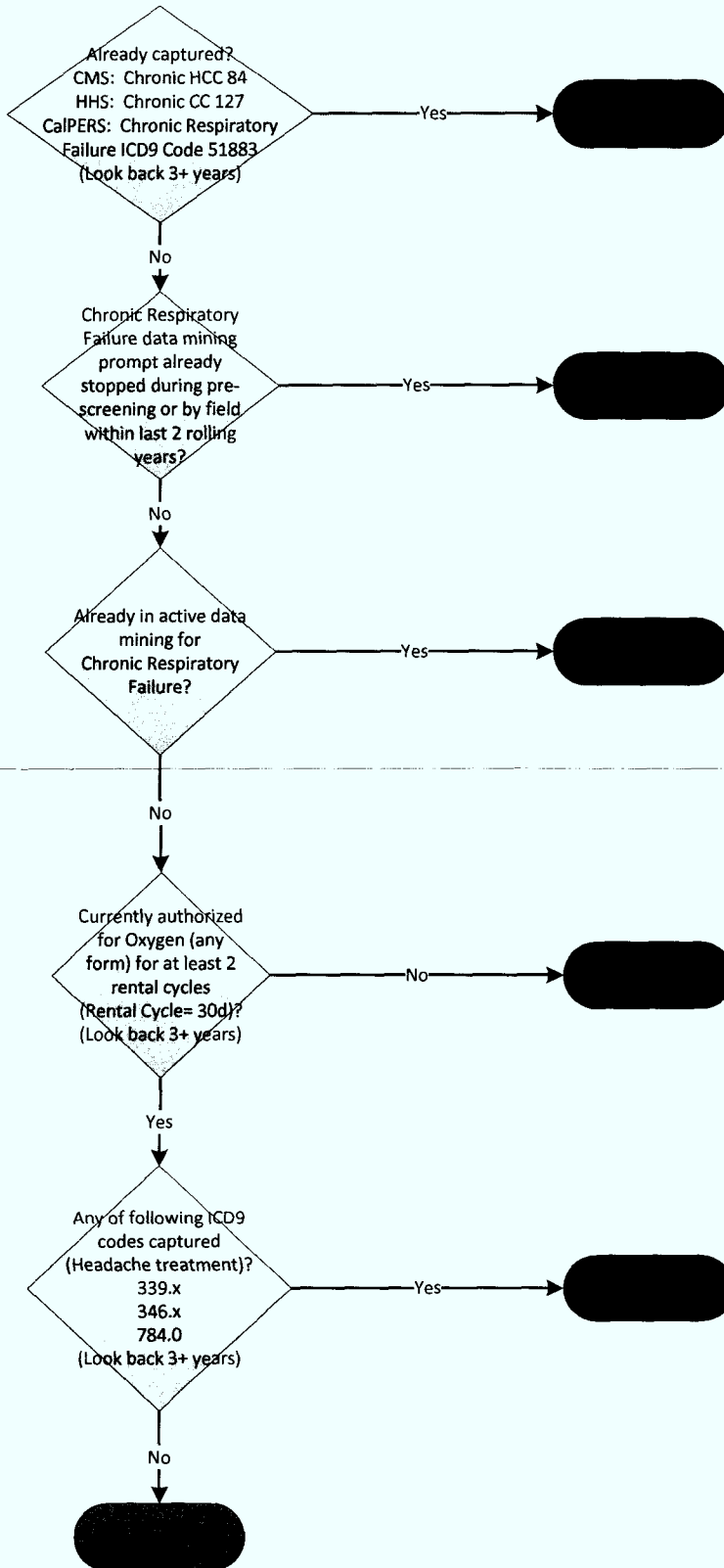
331.0 Alzheimer's disease
331.11 Pick's disease
331.1 Frontotemporal
dementia
331.2 Senile
degeneration of brain

**** For other co-morbidities identified by HCC, use
CMS Model.

<input checked="" type="checkbox"/>	Pre-screened
<input type="checkbox"/>	Not pre-screened
<input type="checkbox"/>	Partially pre-screened

CHRONIC RESPIRATORY FAILURE FINAL v.1- 12/10/2013

<input checked="" type="checkbox"/>	CMS	HCC 84
<input checked="" type="checkbox"/>	HHS	CC 127 Adult/Child
<input checked="" type="checkbox"/>	CalPERS	ICD 518.83



Changes Since Previous Version
 • V.1: Changed format to workflow version

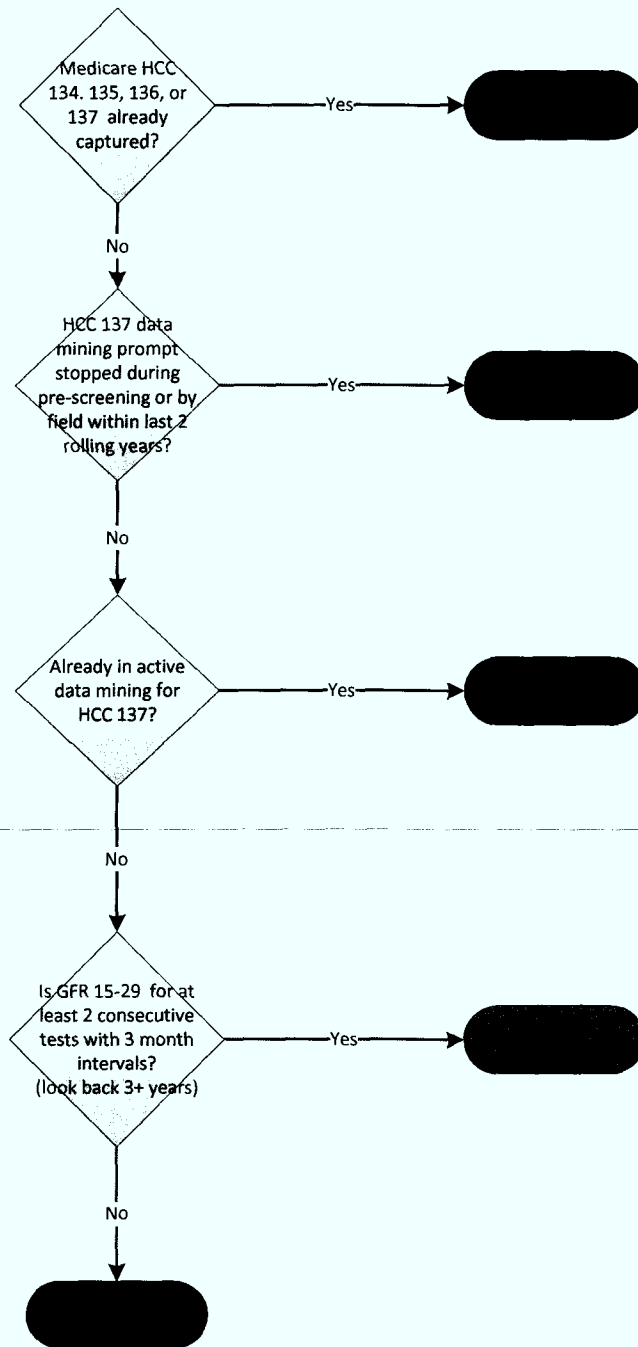
*Chronic Respiratory ICD Code (CMS HCC 84 / HHS CC 127)

51883 CHR RESPIRATORY FAILURE

CHRONIC KIDNEY DISEASE (CKD), STAGE 4
 FINAL v.1 – 1/22/2014

☒ Pre-screened
☐ Not pre-screened
☐ Partially pre-screened

☒ CMS HCC 137
☐ ACA --
☐ CalPERS --

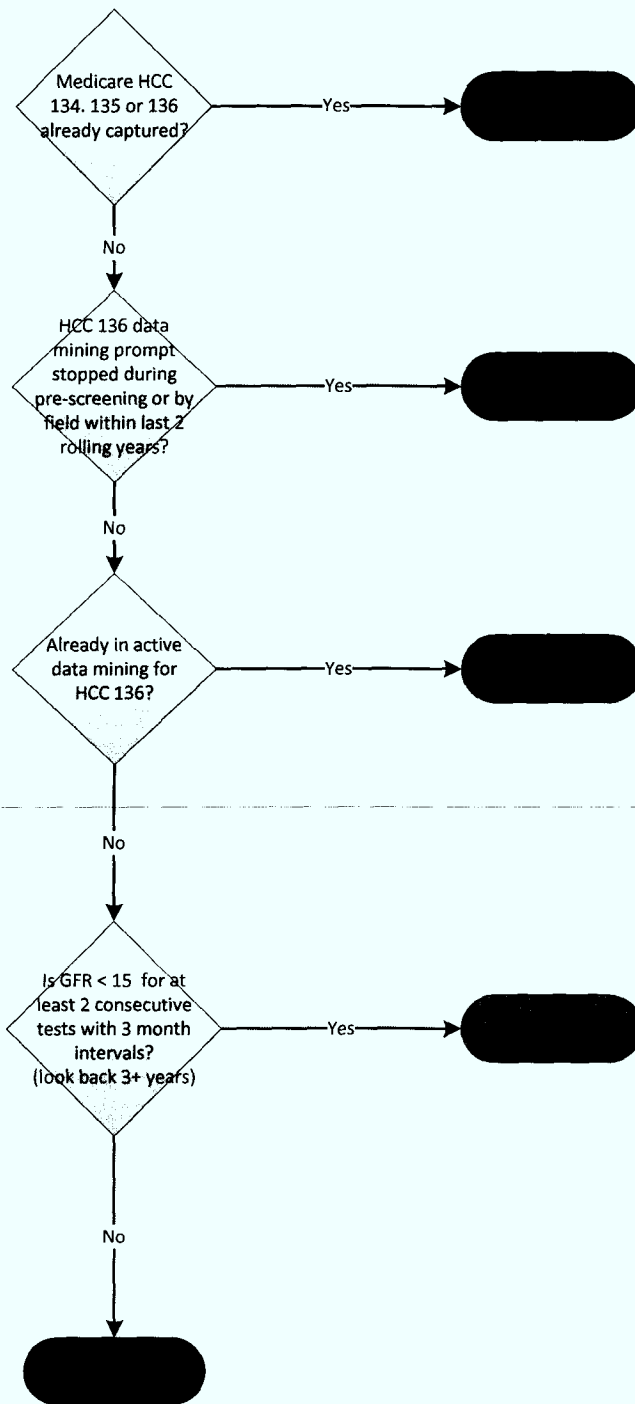


HCCs in Category Name: Kidney
 HCC 134: Dialysis Status
 HCC 135: Acute Renal Failure
 HCC 136: CKD (Stage 5)
 HCC 137: CKD, Severe (Stage 4)

☒ Pre-screened
☐ Not pre-screened
☐ Partially pre-screened

CHRONIC KIDNEY DISEASE (CKD)- STAGE 5 FINAL v.1 – 1/22/2014

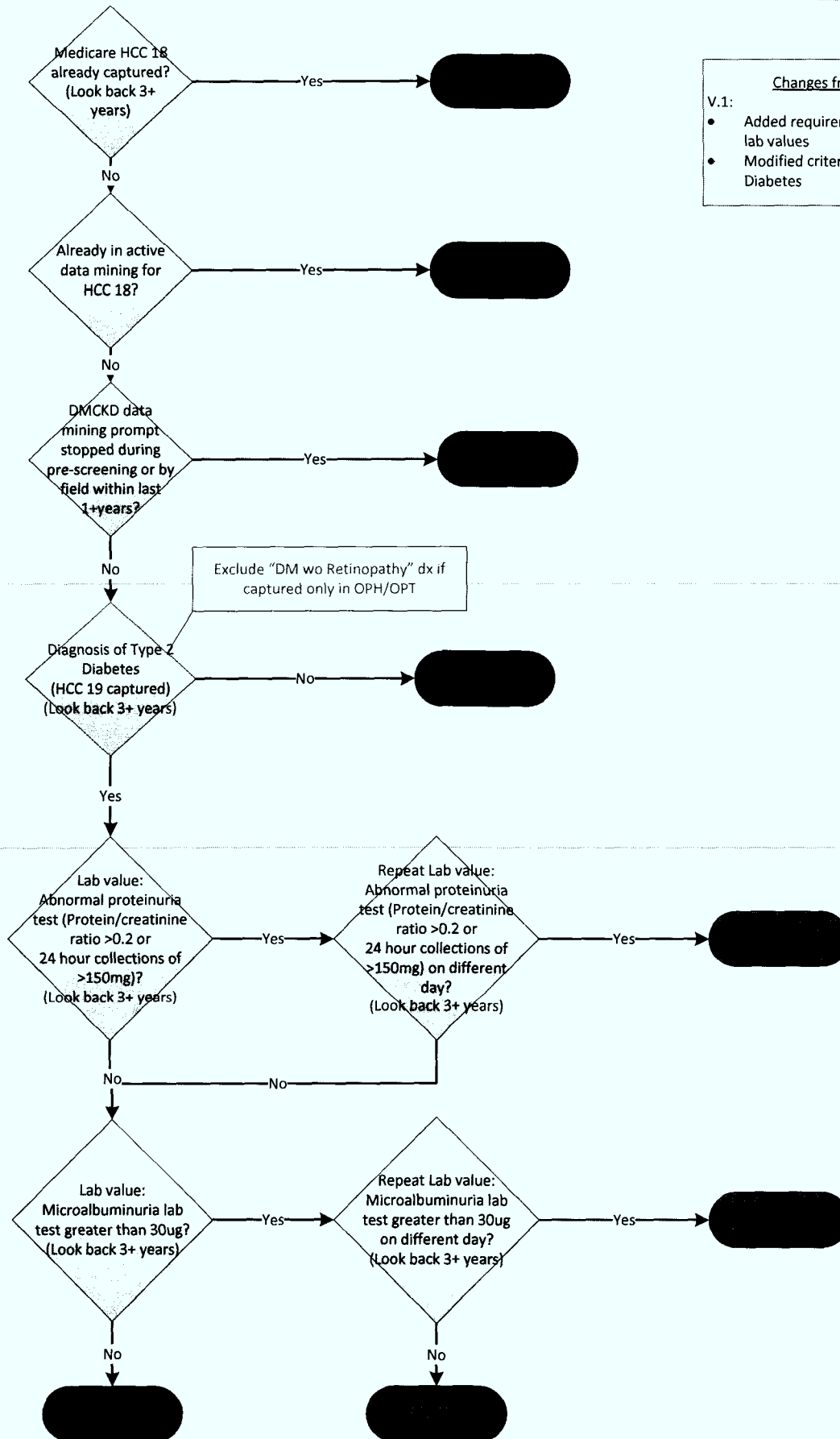
☒ CMS HCC 136
☐ ACA -
☐ CALPERS -



HCCs in Category Name: Kidney
 HCC 134: Dialysis Status
 HCC 135: Acute Renal Failure
 HCC 136: CKD (Stage 5)
 HCC 137: CKD, Severe (Stage 4)

DM w/ Diabetic CKD- FINAL v.1- 9/18/13

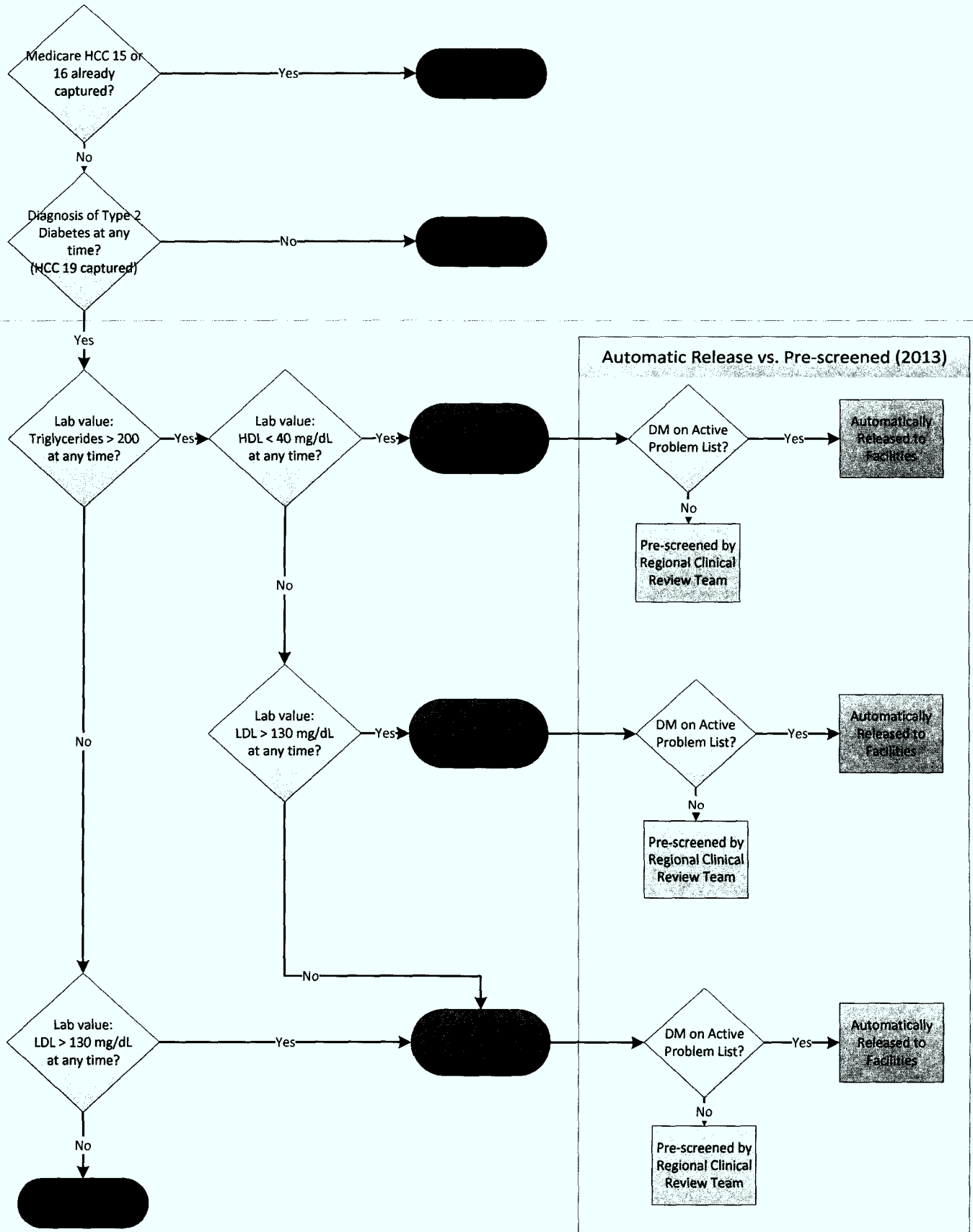
<input checked="" type="checkbox"/>	CMS	HCC 18
<input type="checkbox"/>	HHS	-
<input type="checkbox"/>	CalPERS	-



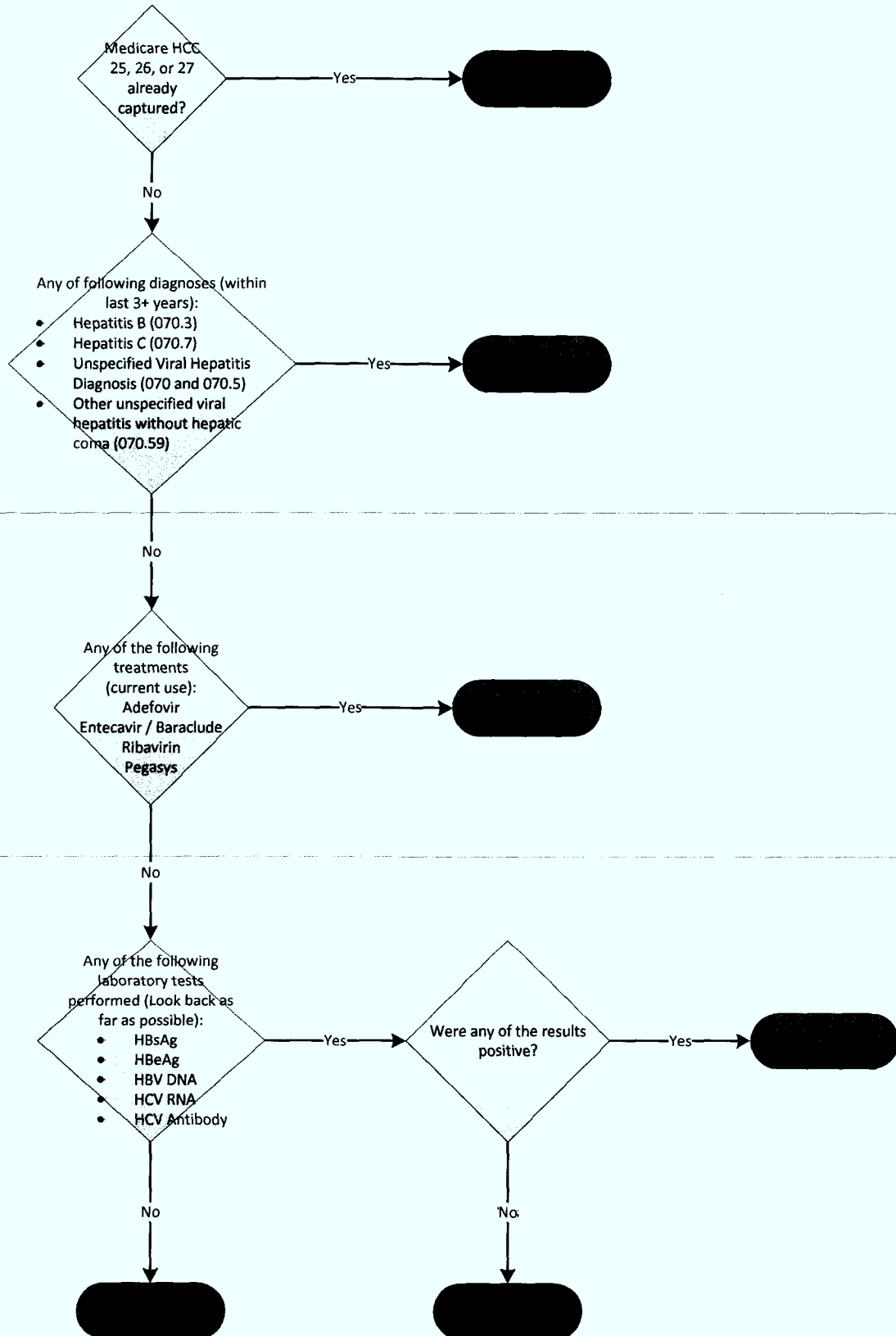
Changes from previous version:
 V.1:
 • Added requirement for at least 2 abnormal lab values
 • Modified criteria for identifying patients with Diabetes

This purpose of this algorithm is to identify patients who may have clinical evidence of Diabetes w/ Diabetic CKD but do not already have a chronic Diabetes complication already captured. This algorithm is not intended for training to the clinical diagnosis criteria for the condition.

DM 2 w/ Lipids
(Dyslipidemia, Mixed Hyperlipidemia, & Hyperlipidemia)
HCC 16



CHRONIC HEPATITIS HCC 27



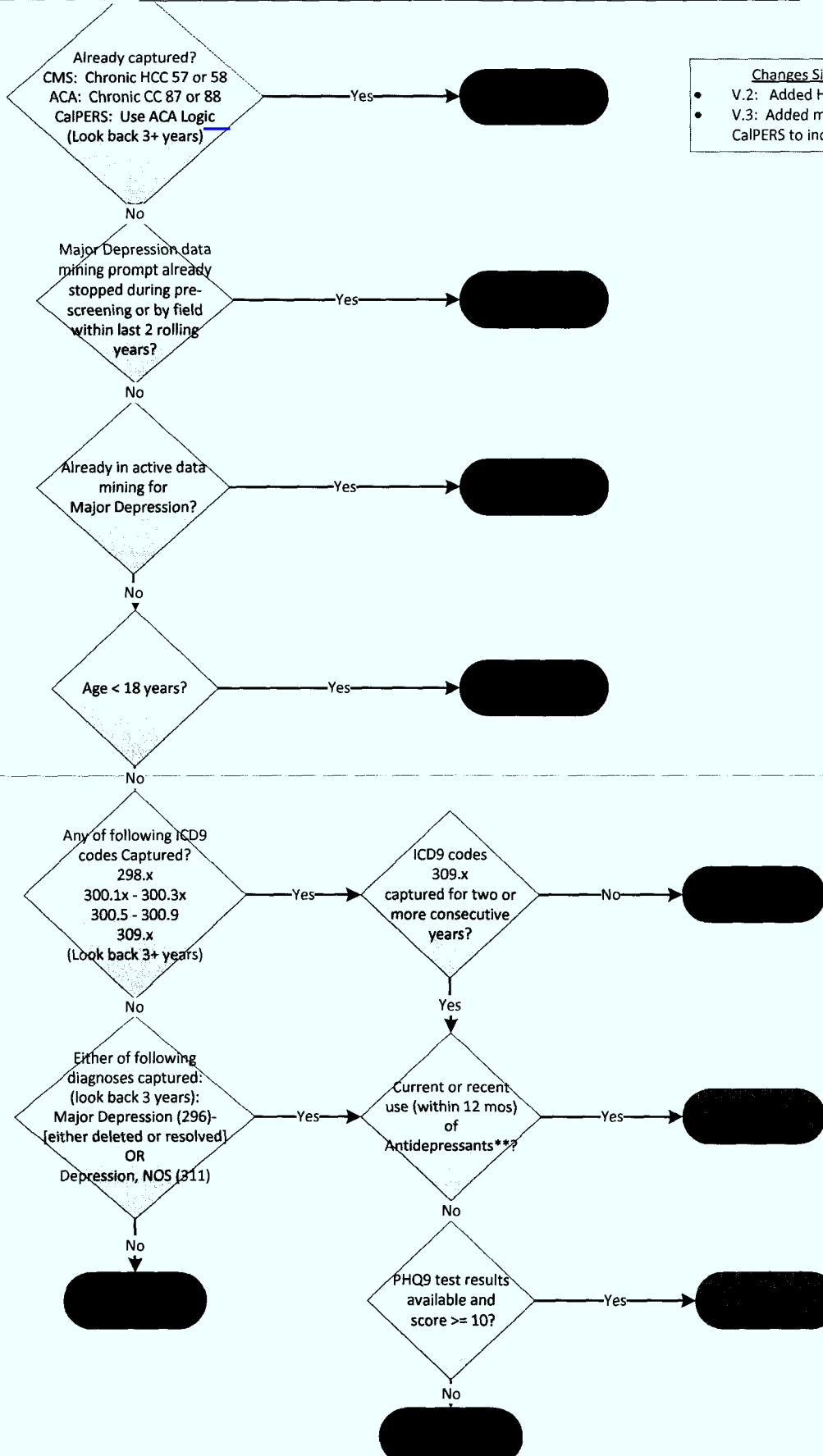
<input checked="" type="checkbox"/>	Pre-screened
<input type="checkbox"/>	Not pre-screened
<input type="checkbox"/>	Partially pre-screened

MAJOR DEPRESSIVE DISORDER FINAL v.3- 3/10/2014

<input checked="" type="checkbox"/>	CMS	HCC 58
<input checked="" type="checkbox"/>	ACA	CC 88 Adult
<input checked="" type="checkbox"/>	CalPERS	Use ACA CC 88 Adult

Changes Since Previous Version

- V.2: Added HHS and CalPERS populations
- V.3: Added minimum age of 18; Modified CalPERS to include trumping logic



This purpose of this algorithm is to identify patients who may have clinical evidence of Major Depressive Disorder but do not already have a Major Depressive Disorder diagnosis captured. This algorithm is not intended for training to the clinical diagnosis criteria for the condition.

*Major Depressive Disorder ICD Codes (CMS HCC 58 / HHS CC 88)

29620 MDD ONE EPIS-NOS
29621 MDD ONE EPIS-MILD
29622 MDD ONE EPIS-MODERATE
29623 MDD ONE EPIS-SEVERE
29624 MDD ONE EPIS-SEV W PSYCH
29625 MDD ONE EPIS-PART REMISS
29626 MDD ONE EPIS-FULL REMISS
29630 RECURRENT MDD-UNSPEC
29631 RECURRENT MDD-MILD
29632 RECURRENT MDD-MOD
29633 RECURRENT MDD-SEVERE
29634 RECURRENT MDD-SEV PSYCH
29635 RECUR MDD-PART REMISS
29636 RECUR MDD-FULL REMISS

**Antidepressant Meds List:

AMOXAPINE
ANAFRANIL
ASENDIN
BENACTYZINE HYDROCHLORIDE
BENACTYZINE/MEPROBAMATE
BUPROPION HCL
BUPROPION HYDROCHLORIDE
CITALOPRAM HYDROBROMIDE
CLOMIPRAMINE HCL
CLOMIPRAMINE HYDROCHLORIDE
DESVENLAFAXINE
DULOXETINE HCL
EFFEXOR
ESCITALOPRAM OXALATE
FLUOXETINE HCL
FLUOXETINE HYDROCHLORIDE
FLUVOXAMINE
FLUVOXAMINE MALEATE
ISOCARBOXAZID
LUDIOMIL
MAPROTILINE
MIRTAZAPINE
NEFAZODONE
NEFAZODONE HCL
OLANZAPINE/FLUOXETINE
PARGYLINE HCL
PARGYLINE HYDROCHLORIDE
PARNATE
PAROXETINE HCL
PAROXETINE MESYLATE
PHENELZINE SULFATE
PROZAC
SERTRALINE HCL
SERTRALINE HYDROCHLORIDE
TRANLYCPROMINE SULFATE
VENLAFAXINE HCL
ZOLOFT
ARIPRAZOLE
ABILIFY
SELEGILINE
EMSAM
AMITRIPTYLINE
ELAVIL
DESIPRAMINE
NORPRAMIN
DOXEPIN
SINEQUAN
IMIPRAMINE
TOFRANIL
NORTRIPTYLINE
PAMELOR
PROTRIPTYLINE
VIVACTIL
SURMONTIL
TRIMIPRAMINE

Severe Obesity- FINAL v.2 4/22/2013
 (HCC 22)

Revision Changes:
 4/22/13 (v.2)- Added co-morbidity: Osteoarthritis

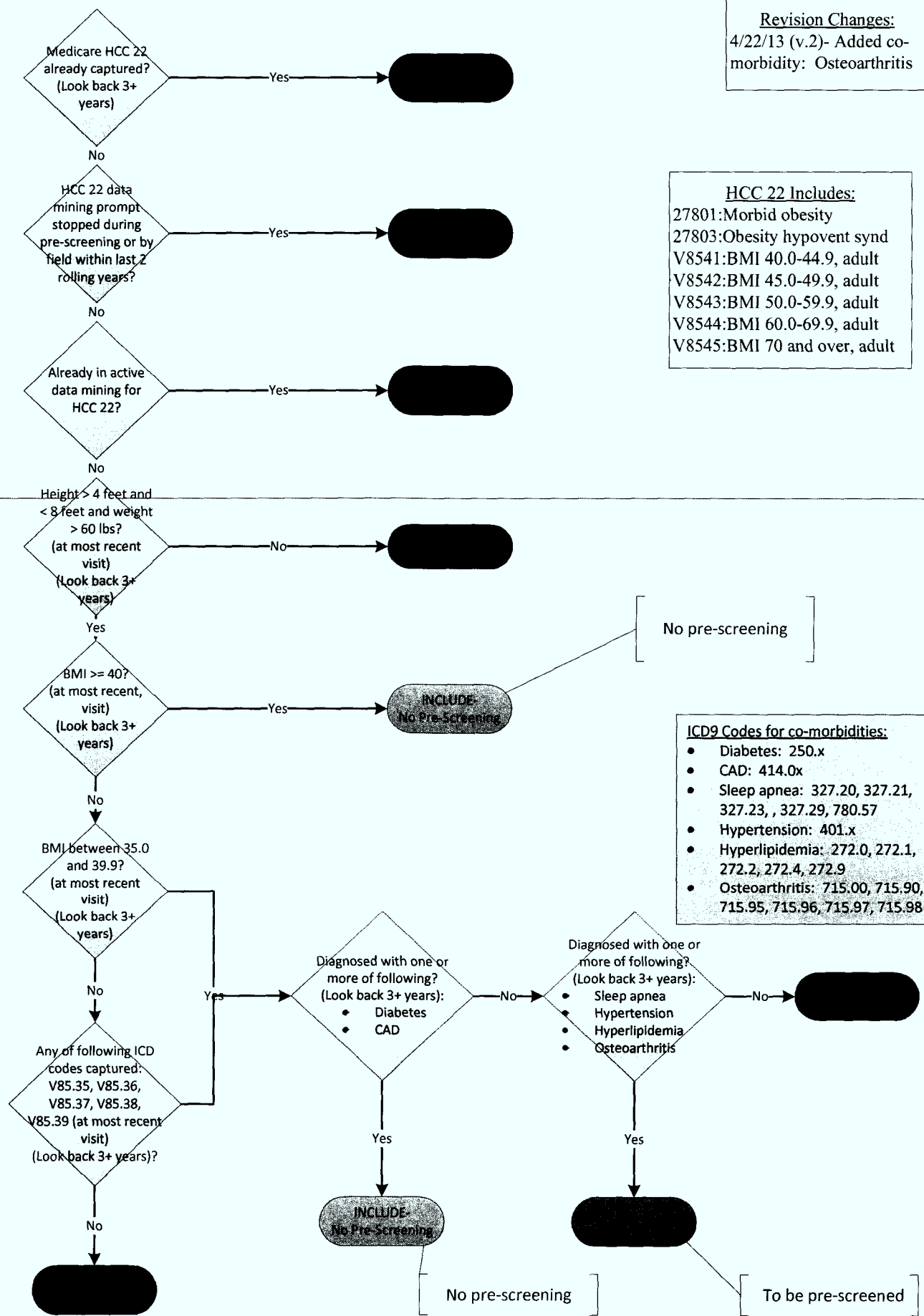
HCC 22 Includes:
 27801:Morbid obesity
 27803:Obesity hypovent synd
 V8541:BMI 40.0-44.9, adult
 V8542:BMI 45.0-49.9, adult
 V8543:BMI 50.0-59.9, adult
 V8544:BMI 60.0-69.9, adult
 V8545:BMI 70 and over, adult

ICD9 Codes for co-morbidities:

- Diabetes: 250.x
- CAD: 414.0x
- Sleep apnea: 327.20, 327.21, 327.23, , 327.29, 780.57
- Hypertension: 401.x
- Hyperlipidemia: 272.0, 272.1, 272.2, 272.4, 272.9
- Osteoarthritis: 715.00, 715.90, 715.95, 715.96, 715.97, 715.98

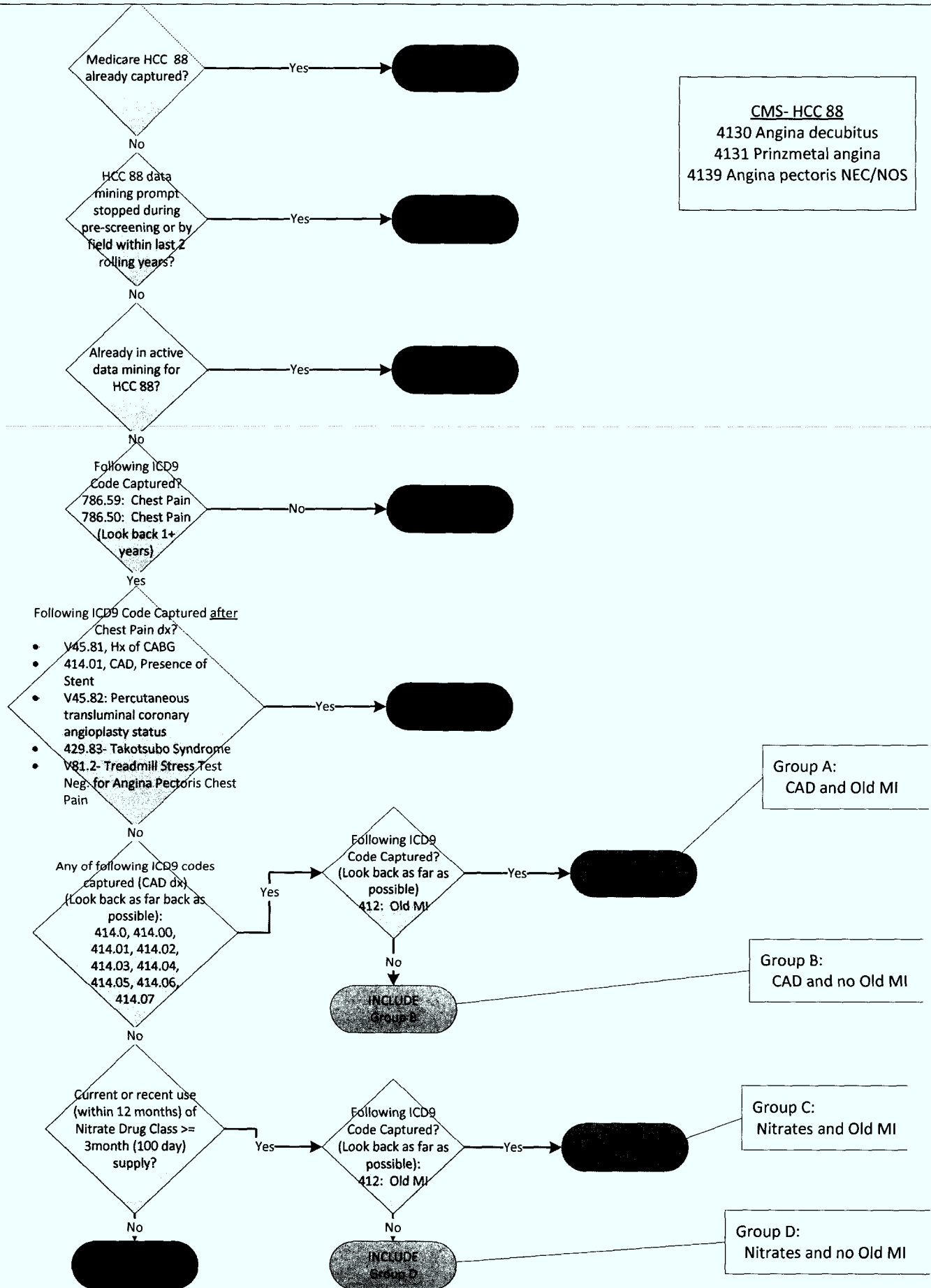
Documentation

Clinical



STABLE ANGINA FINAL v.1 – 6/12/2013

CMS HCC 88 (Formerly 83)



EXHIBIT

2

APPENDIX A

RELATORS' STATISTICAL ANALYSIS OF KAISER HCC DIAGNOSIS RATES AND CALCULATION OF KAISER RISK ADJUSTMENT OVERPAYMENTS

Relators PRIME HEALTHCARE SERVICES, INC. and AJITH KUMAR used the following statistical analysis methodology to identify KAISER's rates of reported ICD-9-CM diagnoses for Medicare enrollees that qualified as HCCs and to calculate the estimated amount of risk adjustment overpayments received by KAISER based on its submission of false HCC claims to CMS.

A. HCC Coding Frequencies and Inpatient Discharge Claims

After downloading CMS's HCC categories and the corresponding ICD-9-CM diagnosis codes from the CMS website, Relators obtained inpatient discharge data for all California hospitals for the years 2009-2012 from the Office of Statewide Health Planning and Development ("OSHPD") using speedtrack.com that showed the ICD-9-CM diagnosis codes for all the hospital patients. Relators then removed non-Medicare patients and ICD-9-CM codes that were not in an HCC category from this OSHPD data set and used pivot tables to organize the remaining ICD-9-CM codes reported for Medicare patients by their respective HCC categories. The relators then filtered this ICD-9-CM/HCC data for Medicare patients by hospital type (based on their National Provider Identifiers) and arranged the ICD-9-CM diagnosis codes into the following four classifications of hospital care for Medicare patients: (1) KAISER Hospitals – Medicare Advantage (managed care); (2) KAISER Hospitals – Traditional Medicare (fee for service); (3) Non-KAISER Hospitals – Medicare Advantage; and (4) Non-KAISER Hospitals – Traditional Medicare.

Relators placed this information onto a Microsoft Excel worksheet, along with the HCC Category, HCC Description, HCC Weight, and Total Claims. The ICD-9-CM diagnosis codes for each HCC Category were then organized into these four classifications of hospital care for Medicare patients, and frequencies or occurrence rates for each HCC Category and all four classifications for the years 2009-2012 were calculated obtained by dividing the number of occurrences for that particular HCC Category by the total number of claims reported for that class.

B. Kaiser Overpayments Based on Over-Reported Inpatient Cases

Relators identified cases in which the particular HCC was reported by KAISER more or less frequently than expected based on comparison to other hospitals ("Over and Under-Reported Cases") by subtracting the "Expected Cases" for that HCC category from the actual number of cases reported by the KAISER for the same HCC Category. The estimated reimbursement for these cases, as well as any credits for fewer-than-expected (i.e., Under-Reported Cases), was then calculated.

Using HCC 15 and 2010 data, the following example illustrates the methodology used by Relators across all HCCs and fiscal years:²¹

2010 Occurrence Rates Diabetes with Renal or Peripheral Circulatory Manifestation1 (HCC 15)
Total KAISER Medicare Advantage Claims = 157,505 Actual Occurrences of HCC 15 = 38,908 HCC 15 Occurrence Rate = $38,980 / 157,575 = 24.7\%$
Total Non-KAISER Traditional Medicare Claims = 912,901 ²² Actual Occurrences of HCC 15 = 41,460 HCC 15 Occurrence Rate = $41,460 / 912,901 = 4.5\%$
2010 KAISER Medicare Advantage Over-Reported HCC 15 Cases
Expected KAISER Cases Compared to Non-KAISER Traditional Medicare = 4.5% of 157,505 = 7,088. KAISER Over-Reported Cases of HCC 15 = $38,908 - 7,088 = 31,820$ KAISER Over-Reported Cases of HCC 15 After Applying Readmission Rate of 19% ²³ = $31,820 \times 19\% = 25,774$.
2010 KAISER HCC 15 Estimated Overpayment Adjusted for Readmission Rate
2010 KAISER HCC 15 Estimated Overpayment Based on Traditional Medicare = $25,774 \times (0.459^{24} \times \$7,463^{25}) = \$88,289,275$. ²⁶

²¹ Note that the calculations performed in this example will vary slightly compared to the actual data/results in the analysis due to rounding conventions applied for the purposes of illustration.

²² This figure does not include KAISER traditional Medicare claims.

²³ To account for the possible readmission of some patients, which would inflate the total number of KAISER Over-Reported Cases, a conservative readmission rate of 19% was used to adjust (and reduce) the total number of Over-Reported Cases used to calculate CMS's estimated risk adjustment overpayments.

²⁴ This is the mathematical weight designated by CMS for HCC 15 in 2010.

²⁵ This is the CMS national factor applied by CMS for all risk adjustment calculations in a given calendar year.

²⁶ This number does not include deductions made for associated HCCs that were dropped before obtaining final overpayment figures.

C. Calculation of Kaiser HCC Occurrence Rates

Relators also compared the ICD-9-CM/HCC coding frequencies for KAISER's Medicare Advantage patients with the frequencies of same ICD-9-CM codes reported for traditional Medicare patients. The below chart show the average KAISER rates relative to Traditional Medicare for each HCC category based on 2008-2013 data.²⁷

KAISER MEDICARE ADVANTAGE CODING RATE VS. TRADITIONAL MEDICARE								
HCC #	HCC Description	2008	2009	2010	2011	2012	2013	Average
119	Proliferative Diabetic Retinopathy and Vitreous Hemorrhage	3,411%	3,776%	3,970%	3,379%	3,053%	2,975%	3,427%
15	Diabetes with Renal or Peripheral Circulatory Manifestation	521%	522%	544%	548%	n/a	537%	535%
18	Diabetes with Ophthalmologic or Unspecified Manifestation	532%	511%	528%	532%	n/a	553%	531%
16	Diabetes with Neurologic or Other Specified Manifestation	372%	407%	429%	451%	n/a	500%	432%
83	Angina Pectoris/Old Myocardial Infarction	239%	253%	272%	275%	637%	265%	324%
105	Vascular Disease	170%	212%	269%	301%	401%	539%	315%
71	Polyneuropathy	294%	310%	315%	316%	89%	320%	274%
55	Major Depressive, Bipolar, and Paranoid Disorders	129%	166%	186%	206%	216%	226%	188%
21	Protein-Calorie Malnutrition	107%	165%	180%	195%	211%	236%	182%
10	Breast, Prostate, Colorectal / Other Cancers and Tumors	164%	162%	162%	159%	161%	159%	161%
132	Nephritis	237%	183%	163%	154%	109%	97%	157%

²⁷ Because the HCC classifications for 2012 (only) used certain unique categories, some 2012 frequency HCC data could not be included within this average; this included HCCs 16, 18, and 15 (diabetes with neurologic, ophthalmologic or renal/peripheral circulatory manifestation, respectively), which did not exist in 2012; and HCC 164 (major complications of medical care and trauma), which was deleted for 2012 only.

KAISER MEDICARE ADVANTAGE CODING RATE VS. TRADITIONAL MEDICARE								
HCC #	HCC Description	2008	2009	2010	2011	2012	2013	Average
33	Inflammatory Bowel Disease	149%	155%	162%	156%	157%	152%	155%
9	Lymphatic, Head and Neck, Brain / Other Major Cancers	137%	134%	129%	131%	162%	129%	137%
38	Rheumatoid Arthritis / Inflammatory Connective Tissue Disease	133%	139%	139%	136%	135%	139%	137%
131	Renal Failure	138%	131%	130%	131%	159%	128%	136%
104	Vascular Disease with Complications	122%	123%	130%	135%	159%	136%	134%
100	Hemiplegia/Hemiparesis	130%	134%	134%	133%	136%	139%	134%
149	Chronic Ulcer of Skin, Except Decubitus	138%	137%	132%	135%	128%	132%	134%
95	Cerebral Hemorrhage	131%	125%	126%	130%	133%	145%	132%
81	Acute Myocardial Infarction	135%	121%	128%	130%	132%	127%	129%
7	Metastatic Cancer and Acute Leukemia	132%	132%	131%	141%	92%	141%	128%
92	Specified Heart Arrhythmias	125%	124%	128%	128%	128%	134%	128%
82	Unstable Angina and Other Acute Ischemic Heart Disease	105%	104%	109%	121%	142%	186%	128%
96	Ischemic or Unspecified Stroke	126%	119%	124%	120%	124%	131%	124%
80	Congestive Heart Failure	125%	122%	123%	123%	121%	119%	122%
32	Pancreatic Disease	104%	113%	118%	121%	127%	135%	120%
164	Major Complications of Medical Care and Trauma	112%	109%	121%	130%	n/a	119%	118%
158	Hip Fracture/Dislocation	115%	118%	115%	120%	120%	119%	118%
27	Chronic Hepatitis	111%	112%	117%	120%	121%	120%	117%

KAISER MEDICARE ADVANTAGE CODING RATE VS. TRADITIONAL MEDICARE								
HCC #	HCC Description	2008	2009	2010	2011	2012	2013	Average
8	Lung, Upper Digestive Tract, and Other Severe Cancers	112%	117%	116%	120%	118%	112%	116%
2	Septicemia/Shock	80%	88%	105%	125%	141%	137%	113%
157	Vertebral Fractures without Spinal Cord Injury	114%	114%	109%	105%	112%	118%	112%
69	Spinal Cord Disorders/Injuries	100%	108%	111%	121%	118%	107%	111%
148	Decubitus Ulcer of Skin	124%	101%	102%	104%	102%	120%	109%
31	Intestinal Obstruction/Perforation	104%	101%	106%	110%	113%	114%	108%
155	Major Head Injury	96%	96%	102%	111%	111%	121%	106%
72	Multiple Sclerosis	106%	109%	104%	106%	109%	103%	106%
177	Amputation Status, Lower Limb/Amputation Complications	107%	112%	110%	103%	99%	102%	106%
45	Disorders of Immunity	113%	107%	115%	111%	88%	94%	105%
79	Cardio-Respiratory Failure and Shock	83%	92%	103%	113%	112%	121%	104%
37	Bone/Joint/Muscle Infections/Necrosis	97%	92%	95%	101%	107%	106%	100%
17	Diabetes with Acute Complications	86%	92%	98%	101%	100%	100%	96%
44	Severe Hematological Disorders	93%	84%	84%	83%	105%	100%	91%
108	Chronic Obstructive Pulmonary Disease	103%	92%	90%	87%	86%	86%	91%
130	Dialysis Status	94%	94%	92%	91%	83%	81%	89%
25	End-Stage Liver Disease	84%	81%	89%	92%	92%	92%	88%

KAISER MEDICARE ADVANTAGE CODING RATE VS. TRADITIONAL MEDICARE								
HCC #	HCC Description	2008	2009	2010	2011	2012	2013	Average
51	Drug/Alcohol Psychosis	87%	89%	89%	87%	89%	83%	87%
112	Pneumococcal Pneumonia, Emphysema, Lung Abscess	81%	83%	83%	90%	89%	96%	87%
73	Parkinson's and Huntington's Diseases	89%	90%	91%	83%	85%	83%	87%
70	Muscular Dystrophy	79%	97%	101%	82%	92%	66%	86%
26	Cirrhosis of Liver	85%	83%	86%	86%	86%	87%	85%
174	Major Organ Transplant Status	68%	77%	80%	90%	92%	77%	81%
52	Drug/Alcohol Dependence	73%	76%	81%	83%	82%	79%	79%
78	Respiratory Arrest	71%	78%	62%	73%	84%	85%	75%
75	Coma, Brain Compression/Anoxic Damage	65%	58%	63%	80%	91%	93%	75%
161	Traumatic Amputation	79%	85%	74%	50%	66%	78%	72%
5	Opportunistic Infections	72%	67%	70%	67%	73%	74%	71%
74	Seizure Disorders and Convulsions	70%	70%	70%	68%	67%	69%	69%
111	Aspiration and Specified Bacterial Pneumonias	70%	64%	62%	64%	63%	67%	65%
68	Paraplegia	62%	59%	63%	70%	66%	63%	64%
176	Artificial Openings for Feeding or Elimination	64%	68%	68%	65%	68%	48%	63%
77	Respirator Dependence/Tracheostomy Status	64%	66%	65%	55%	53%	43%	58%
67	Quadriplegia, Other Extensive Paralysis	66%	63%	62%	57%	49%	47%	57%

KAISER MEDICARE ADVANTAGE CODING RATE VS. TRADITIONAL MEDICARE								
HCC #	HCC Description	2008	2009	2010	2011	2012	2013	Average
19	Diabetes without Complication	55%	59%	58%	55%	55%	51%	56%
101	Cerebral Palsy and Other Paralytic Syndromes	69%	56%	59%	56%	35%	56%	55%
1	HIV/AIDS	45%	45%	53%	59%	56%	59%	53%
150	Extensive Third-Degree Burns	26%	26%	46%	42%	72%	27%	40%
154	Severe Head Injury	44%	49%	33%	56%	29%	27%	40%
107	Cystic Fibrosis	26%	23%	34%	27%	22%	42%	29%
54	Schizophrenia	16%	14%	15%	15%	16%	15%	15%

D. Adjustment of Kaiser Overpayments Based on “Associated” HCCs

As previously described, relators obtained 2008-2013 inpatient claim data from OSHPD that included all HCC ICD-9-CM diagnoses reported for all claims by a particular hospital during each year. However, under Medicare Part C, some HCCs ICD-9-CM diagnoses would not count towards risk adjustment because certain disease hierarchies require that “associated” HCCs reported for the *same* patient be “dropped” for the purposes of risk-adjustment.

Consequently, if relators estimated total risk adjustment payments based on HCC occurrences alone, this would inaccurately inflate the actual reimbursement paid. For example, if a Medicare patient was diagnosed with end-stage renal disease (HCC 27), the CMS’s 2012 preliminary disease hierarchies would eliminate other HCCs for cirrhosis of liver (HCC 28), chronic hepatitis (HCC 29) and coma (HCC 80) from CMS’s calculation of the risk-adjustment payment for that patient because the additional payment for treatment of end-stage renal disease was deemed sufficient to compensate a Medicare Advantage plan for a patient who also had these other medical conditions. However, since the OSHPD coding occurrences were pooled and not patient-specific, relators could not determine where multiple HCC codes may have been reported for a particular patient.

To account for the possibility of associated HCCs that would have been dropped prior to submission to CMS, relators took a highly conservative approach and dropped or reduced all associated HCCs when calculating CMS estimated risk adjustment payments to KAISER. For example, in the case of end-stage renal disease (HCC 27), relators eliminated all associated HCCs (HCCs 28, 29 and 80) where appropriate from the entire KAISER data set. Before relators’ correction, KAISER’s 2012 HHCs for end-stage renal disease and associated HCCs were as follows:

HCC#	HCC Description	HCC Weight	Total Occurrences
27	End-Stage Liver Disease	0.637	3,291
28	Cirrhosis of Liver	0.343	3,470
29	Chronic Hepatitis	0.343	2,867
80	Coma, Brain Compression/Anoxic Damage	0.103	2,079

After relators dropped the associated HCCs, the total numbers of KAISER HCC 227 occurrences actually counted for the purpose of calculating CMS's estimated risk adjustment payments to CMS were as follows:

HCC#	HCC Description	HCC Weight	Total Occurrences
27	End-Stage Liver Disease	0.637	3,291
28	Cirrhosis of Liver	0.343	179
29	Chronic Hepatitis	0.343	2,867
80	Coma, Brain Compression/Anoxic Damage	0.103	2,079

In this example, relators accounted for HCCs associated with end-stage liver disease by reducing HCC 28 to 179 occurrences because there were exactly 179 more cases reported for HCC 28 than HCC 27 (3,291 subtracted from 3,470), indicating that cirrhosis of liver was reported in *at least* 179 cases where end-stage liver disease could not have also been diagnosed on any underlying claim. In the case of HCCs 29 and 80, relators dropped these HCCs entirely because there were fewer HCC 29 and 90 cases relative to HCC 27 cases and relators made the highly conservative assumption that HCC 29 or 90 *may* have been reported together with HCC 27 on each individual patient claim.

It should be noted that relators' decision to drop associated HCCs in this manner almost certainly results in a significant underestimate of the actual risk adjustment payments that KAISER received. By treating all associated HCCs as though they were in fact reported on the same claim, as in the example of HCC 27 above, many independent occurrences of HCCs 28, 29, and 80 were almost certainly and unnecessarily eliminated. In particular, it is unlikely that in each of KAISER's 3,291 HCC 27 claims, HCCs 28, 29 and 80 were also present. As a result, KAISER has received the benefit of having its risk adjustment payments for certain HCCs eliminated from relators' overpayment estimates when those HCCs were not in fact associated with the HCC under CMS's HCC certain disease hierarchies.

E. Calculation of Kaiser Overpayments and Extrapolation to Entire California Medicare Advantage Patient Population

While relators have used inpatient discharge data to determine coding frequencies and estimate overpayments based on such data, this methodology does not capture the full extent of KAISER's fraud because it does not include KAISER's entire Medicare Advantage patient population and excludes outpatient encounters. To account for this limitation, relators

extrapolated its findings from KAISER's inpatient admissions to the plan's entire Medicare Advantage population.

Specifically, KAISER's total Medicare inpatient admissions were adjusted downward using a 19% readmission rate and this total, approximating the actual number of Medicare enrollees admitted by KAISER for each fiscal year, was then compared to the corresponding total risk adjustment payments – after deducting all associated HCCs and including both Over and Under-Reported Cases – for that year and a ratio was derived. This ratio was then applied to KAISER's entire Medicare Advantage risk population for each year based on actual membership numbers obtained from CMS. For 2008 - 2013, this methodology resulted in the following estimated risk adjustment overpayment by CMS to KAISER:

Fiscal Year	KAISER Total Risk Population	KAISER Members Admitted Patients	Overpayment Based on Admitted Patients	Overpayment Based on Entire Risk Population
2008	704,200	118,511	\$221,938,790.21	\$1,318,774,595.33
2009	740,173	121,543	\$220,790,544.07	\$1,344,571,052.05
2010	782,182	127,579	\$294,696,317.65	\$1,806,771,922.75
2011	825,836	124,663	\$368,416,004.26	\$2,440,589,423.44
2012	894,377	119,599	\$545,227,919.09	\$4,077,285,851.85
2013	926,127	121,963	\$456,684,863.81	\$3,467,840,106.14
TOTAL:			\$2,107,754,439.10	\$14,455,832,951.57

Note that KAISER's total Medicare Advantage risk population only included enrollees in California. Since KAISER provides services to Medicare enrollees in other states, relators' estimated risk adjustment overpayments to KAISER is lower than CMS's total overpayments to KAISER for its national Medicare Advantage risk population.

F. Kaiser Compared to Traditional Medicare & Other 5-Star Medicare Advantage Plans

Relators' data is consistent with and is validated by independent analyses of Kaiser's costs per member per month ("PMPM") for MA plan enrollees, which was derived from publicly available Medicare premium and total risk population information, as compared to the average PMPM for traditional Medicare providers and other 5-Star California MA plans between 2008 and 2013:

Year	Kaiser MA PMPM	CMS Cost for FFS PMPM	Excess Annual Payment to Kaiser FFS (annualized)
2008	\$1,161.02	\$671.39	\$4,137,536,433.79
2009	\$1,179.57	\$683.01	\$4,410,443,334.02

2010	\$1,153.93	\$701.30	\$4,248,444,069.26
2011	\$1,114.87	\$715.20	\$3,960,744,987.72
2012	\$1,158.46	\$707.71	\$4,837,699,495.62
2013	\$1,175.30	\$713.55	\$5,131,642,599.06
TOTAL:			\$26,726,510,919.48

Year	Kaiser MA PMPM	CMS 5-Star MA Plans' PMPM (average)	Excess Payment to Kaiser MA (annualized)
2008	\$1,161.02	\$803.87	\$3,018,038,035.66
2009	\$1,179.57	\$835.06	\$3,059,901,044.76
2010	\$1,153.93	\$839.09	\$2,955,090,095.47
2011	\$1,114.87	\$839.09	\$2,732,954,257.46
2012	\$1,158.46	\$863.96	\$3,160,745,851.04
2013	\$1,175.30	\$867.34	\$3,422,485,930.32
TOTAL:			\$18,349,215,214.72

EXHIBIT 3

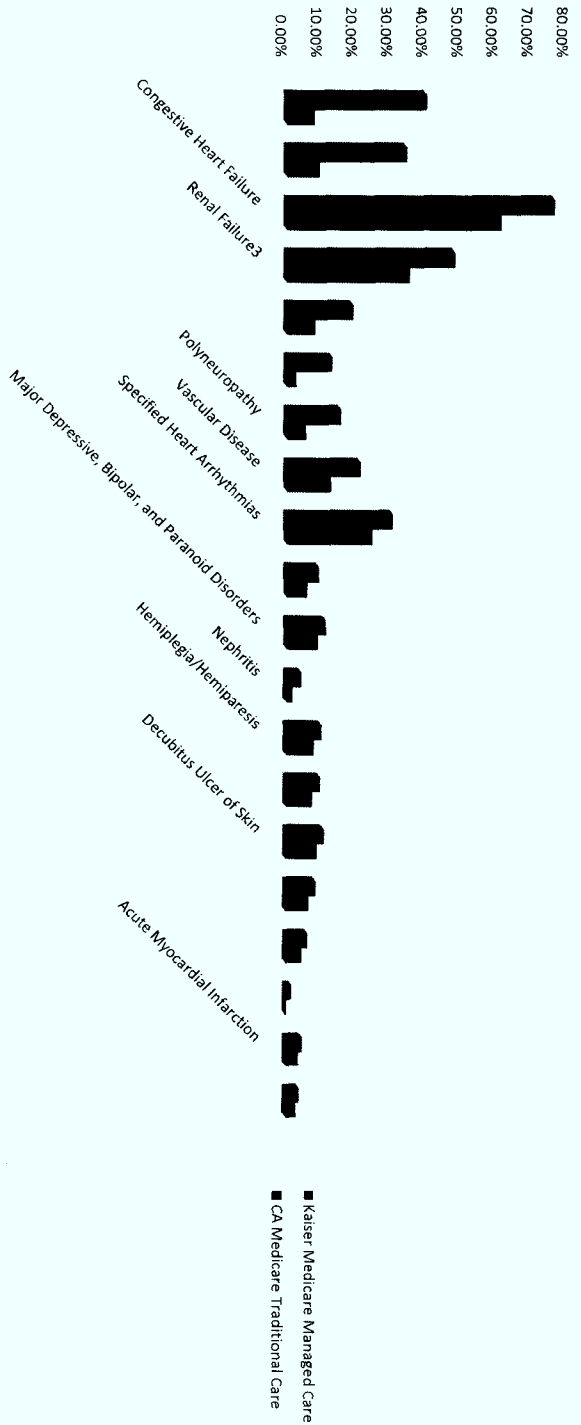
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-0.61%	-2.86%
-6.22%	-13.98%

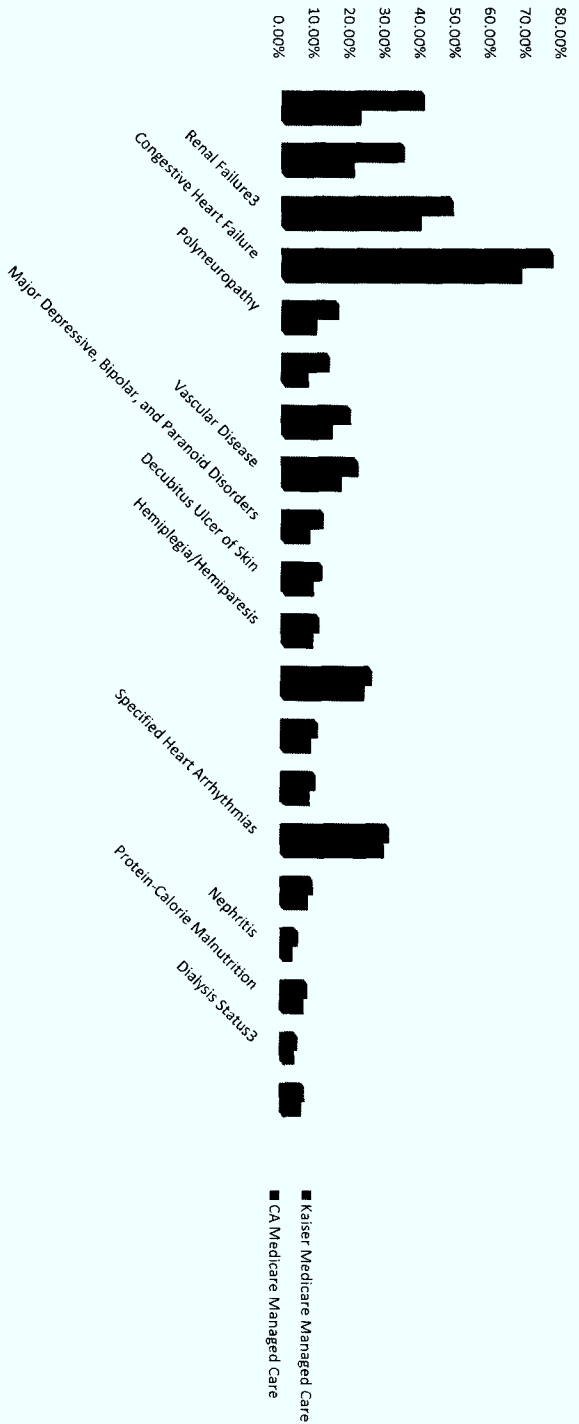
PRIME HEALTHCARE SERVICES
HCC CODING - KAISER VS. ALL OTHER CALIFORNIA HOSPITALS
BASED ON 2013 OSHPD DATA

Difference in occurrence rate for Kaiser Med. Mngd Care vs CA Med. Trad care FY 2008



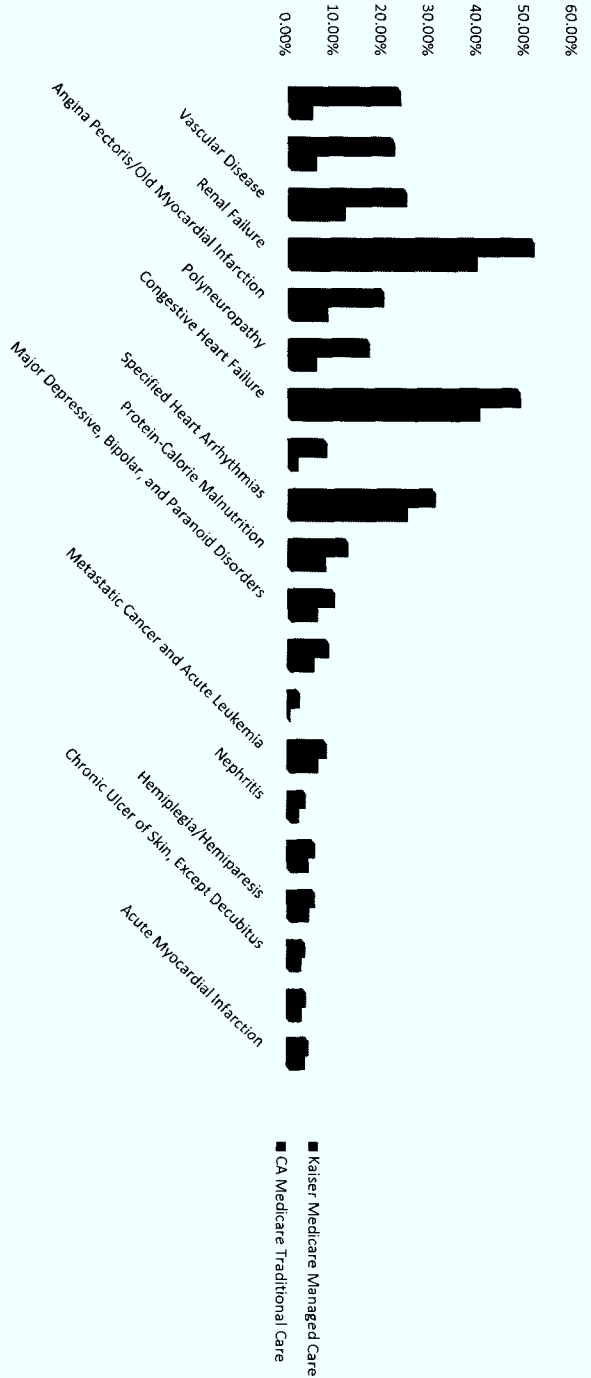
HCC CATEG	HCC Desc	Kaiser Medicare Managed Care	CA Medicare Traditional Care
HCC15	Diabetes with Renal or Peripheral Circulatory Manifestation	39.64%	7.61%
HCC16	Diabetes with Neurologic or Other Specified Manifestation	34.05%	9.16%
HCC80	Congestive Heart Failure	76.10%	60.74%
HCC131	Renal Failure3	47.77%	34.74%
HCC83	Angina Pectoris/OldMyocardial Infarction	18.75%	7.85%
HCC18	Diabetes with Ophthalmologic or Unspecified Manifestation	12.79%	2.40%
HCC71	Polynuropathy	15.35%	5.22%
HCC105	Vascular Disease	20.81%	12.21%
HCC92	Specified Heart Arrhythmias	30.01%	24.03%
HCC10	Breast, Prostate, Colorectal and Other Cancers and Tumors	9.11%	5.56%
HCC55	Major Depressive, Bipolar, and Paranoid Disorders	11.02%	8.54%
HCC132	Nephritis	4.15%	1.75%
HCC100	Hemiplegia/Hemiparesis	9.99%	7.70%
HCC7	Metastatic Cancer and AcuteLeukemia	9.53%	7.25%
HCC148	Decubitus Ulcer of Skin	10.59%	8.53%
HCC38	Rheumatoid Arthritis and Inflammatory Connective Tissue Disease	8.34%	6.29%
HCC9	Lymphatic, Head and Neck, Brain, and Other Major Cancers	6.05%	4.42%
HCC119	Proliferative Diabetic Retinopathy and Vitreous Hemorrhage	1.54%	0.05%
HCC81	Acute Myocardial Infarction	4.61%	3.41%
HCC149	Chronic Ulcer of Skin, ExceptDecubitus	3.74%	2.70%

Difference in occurrence rate for Kaiser Med. Mngd Care vs CA Med. Mngd care FY 2008



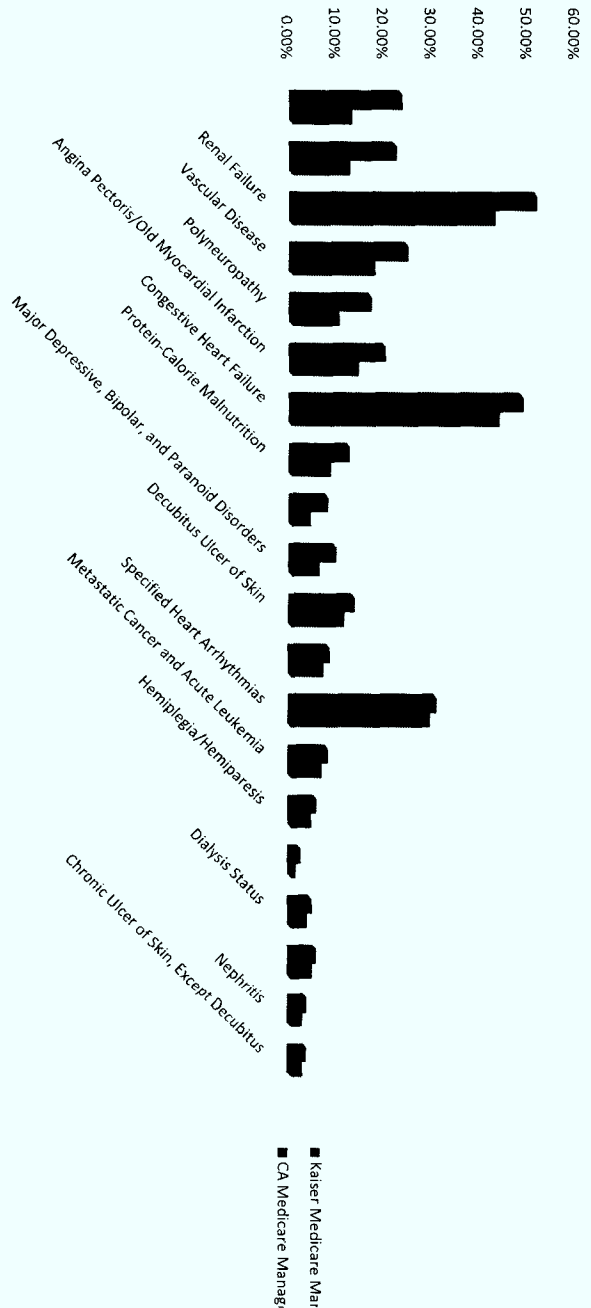
HCC CATEG	HCC Desc	Kaiser Medicare Managed Care	CA Medicare Managed Care
HCC15	Diabetes with Renal or Peripheral Circulatory Manifestation	39.64%	21.49%
HCC16	Diabetes with Neurologic or Other Specified Manifestation	34.05%	19.56%
HCC131	Renal Failure3	47.77%	38.49%
HCC80	Congestive Heart Failure	76.10%	67.11%
HCC71	Polynuropathy	15.35%	9.10%
HCC18	Diabetes with Ophthalmologic or Unspecified Manifestation	12.79%	6.59%
HCC83	Angina Pectoris/OldMyocardial Infarction	18.75%	13.47%
HCC105	Vascular Disease	20.81%	16.08%
HCC55	Major Depressive, Bipolar, and Paranoid Disorders	11.02%	7.24%
HCC148	Decubitus Ulcer of Skin	10.59%	8.21%
HCC100	Hemiplegia/Hemiparesis	9.99%	7.96%
HCC108	Chronic ObstructivePulmonary Disease	24.81%	22.79%
HCC7	Metastatic Cancer and AcuteLeukemia	9.53%	7.70%
HCC10	Breast, Prostate, Colorectal and Other Cancers and Tumors	9.11%	7.35%
HCC92	Specified Heart Arrhythmias	30.01%	28.37%
HCC38	Rheumatoid Arthritis and Inflammatory Connective Tissue Disease	8.34%	6.79%
HCC132	Nephritis	4.15%	2.65%
HCC21	Protein-Calorie Malnutrition	6.86%	5.68%
HCC130	Dialysis Status3	4.08%	3.06%
HCC9	Lymphatic, Head and Neck, Brain, and Other Major Cancers	6.05%	5.03%

Difference in occurrence rate for Kaiser Med. Mngd Care vs CA Med. Trad care FY 2009



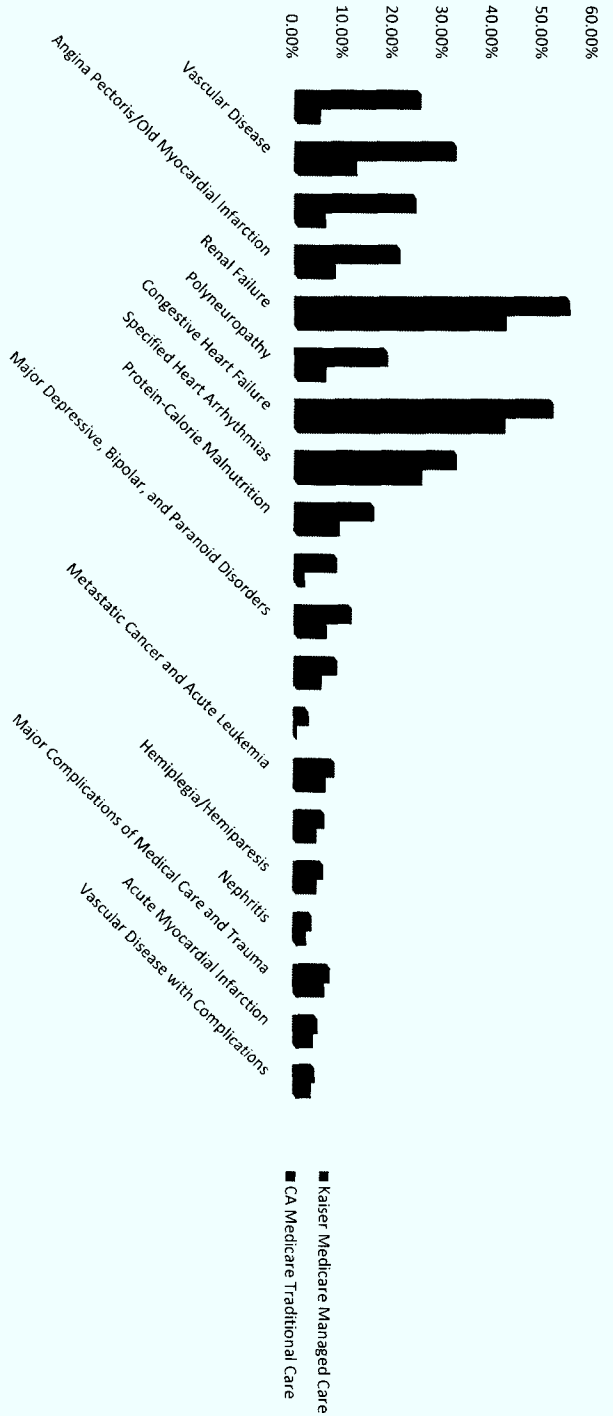
HCC CATEG	HCC Desc	Kaiser Medicare Managed Care	CA Medicare Traditional Care
15	Diabetes with Renal or Peripheral Circulatory Manifestation1	23.02%	4.41%
16	Diabetes with Neurologic or Other Specified Manifestation1	21.73%	5.34%
105	Vascular Disease	24.21%	11.40%
131	Renal Failure	51.05%	38.96%
83	Angina Pectoris/Old Myocardial Infarction	19.50%	7.69%
71	Polynuropathy	16.53%	5.33%
80	Congestive Heart Failure	48.19%	39.49%
18	Diabetes with Ophthalmologic or Unspecified Manifestation1	7.50%	1.47%
92	Specified Heart Arrhythmias	30.24%	24.45%
21	Protein-Calorie Malnutrition	11.98%	7.26%
55	Major Depressive, Bipolar, and Paranoid Disorders	9.26%	5.58%
10	Breast, Prostate, Colorectal and Other Cancers and Tumors	8.07%	4.97%
119	Proliferative Diabetic Retinopathy and Vitreous Hemorrhage	2.05%	0.05%
7	Metastatic Cancer and Acute Leukemia	7.63%	5.79%
132	Nephritis	3.34%	1.82%
38	Rheumatoid Arthritis and Inflammatory Connective Tissue Disease	5.31%	3.81%
100	Hemiplegia/Hemiparesis	5.33%	3.98%
149	Chronic Ulcer of Skin, Except Decubitus	3.25%	2.37%
9	Lymphatic, Head and Neck, Brain, and Other Major Cancers	3.41%	2.55%
81	Acute Myocardial Infarction	3.97%	3.27%

Difference in occurrence rate for Kaiser Med. Mingd Care vs CA Med. Mingd care FY 2009



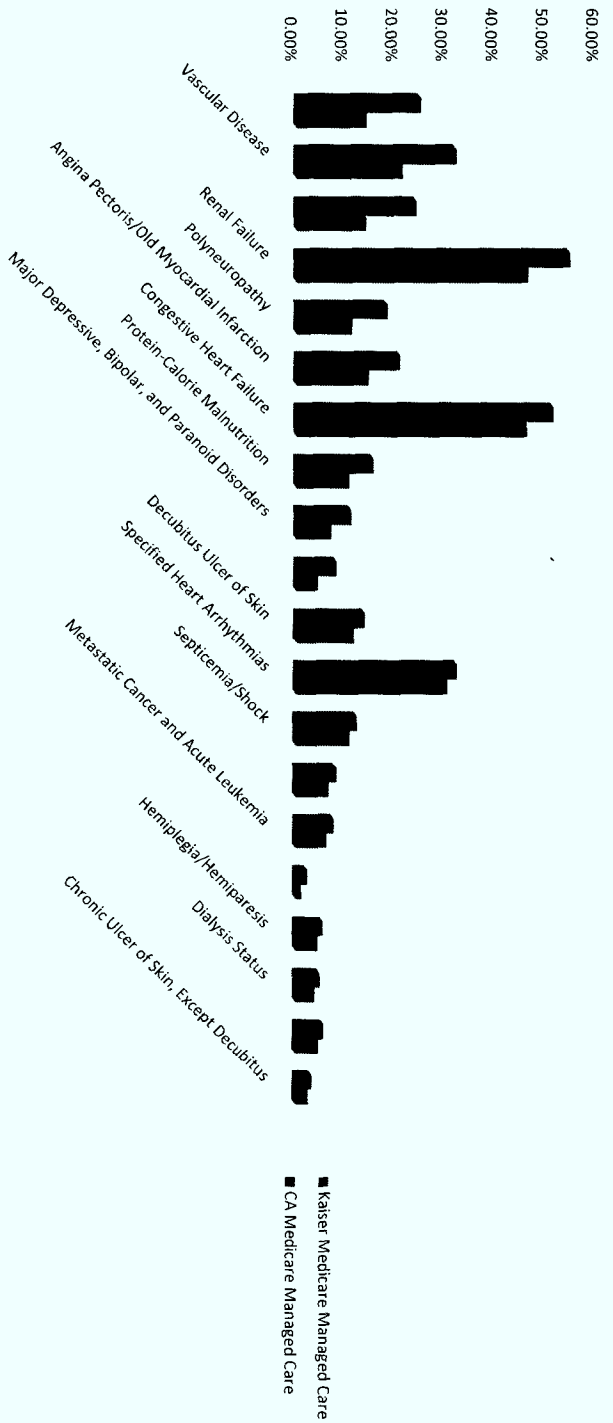
HCC CATEG	HCC Desc	Kaiser Medicare Managed Care	CA Medicare Managed Care
15	Diabetes with Renal or Peripheral Circulatory Manifestation ¹	23.02%	12.36%
16	Diabetes with Neurologic or Other Specified Manifestation ¹	21.73%	11.94%
131	Renal Failure	51.05%	42.34%
105	Vascular Disease	24.21%	17.23%
71	Polynuropathy	16.53%	9.76%
83	Angina Pectoris/Old Myocardial Infarction	19.50%	13.74%
80	Congestive Heart Failure	48.19%	43.13%
21	Protein-Calorie Malnutrition	11.98%	8.01%
18	Diabetes with Ophthalmologic or Unspecified Manifestation ¹	7.50%	3.81%
55	Major Depressive, Bipolar, and Paranoid Disorders	9.26%	5.66%
148	Decubitus Ulcer of Skin	13.09%	10.87%
10	Breast, Prostate, Colorectal and Other Cancers and Tumors	8.07%	6.60%
92	Specified Heart Arrhythmias	30.24%	28.88%
7	Metastatic Cancer and Acute Leukemia	7.63%	6.28%
100	Hemiplegia/Hemiparesis	5.33%	4.15%
119	Proliferative Diabetic Retinopathy and Vitreous Hemorrhage	2.05%	0.90%
130	Dialysis Status	4.40%	3.30%
38	Rheumatoid Arthritis and Inflammatory Connective Tissue Disease	5.31%	4.31%
132	Nephritis	3.34%	2.41%
149	Chronic Ulcer of Skin, Except Decubitus	3.25%	2.40%

Difference in occurrence rate for Kaiser Med. Mngd Care vs CA Med. Trad care FY 2010



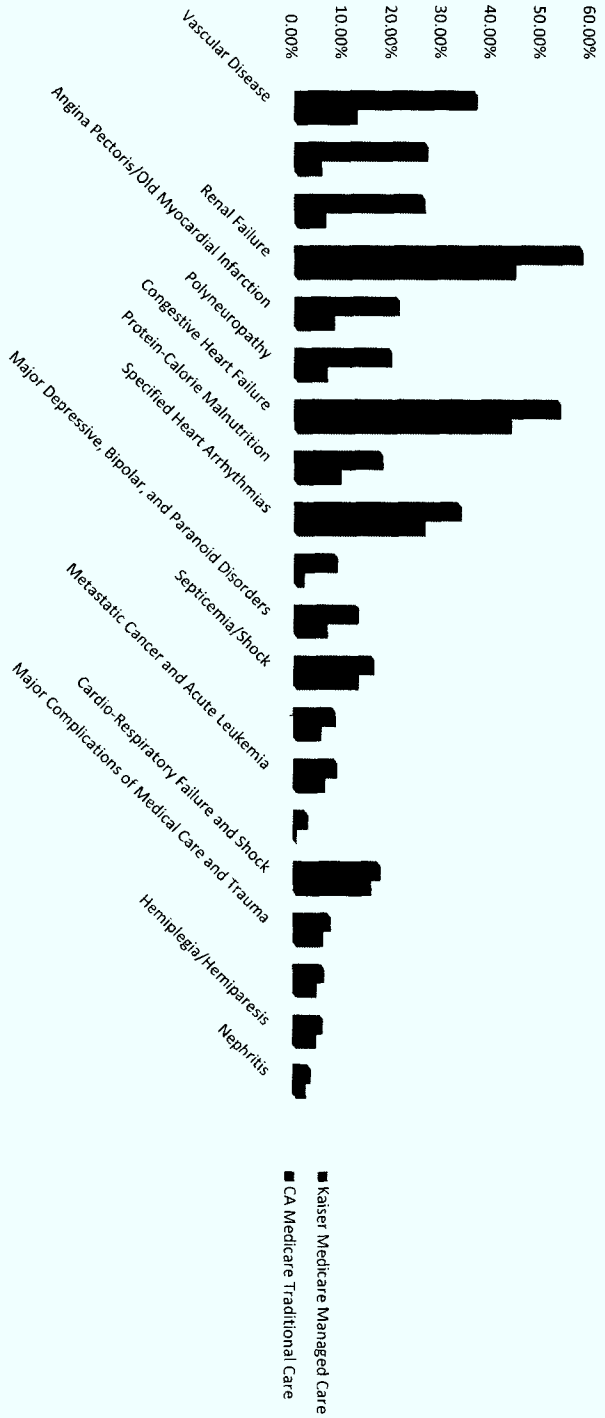
HCC CATEG	HCC Desc	Kaiser Medicare Managed Care	CA Medicare Traditional Care
15	Diabetes with Renal or Peripheral Circulatory Manifestation1	24.70%	4.54%
105	Vascular Disease	31.77%	11.79%
16	Diabetes with Neurologic or Other Specified Manifestation1	23.80%	5.55%
83	Angina Pectoris/Old Myocardial Infarction	20.51%	7.53%
131	Renal Failure	54.47%	41.77%
71	Polypeuropathy	18.01%	5.71%
80	Congestive Heart Failure	51.14%	41.50%
92	Specified Heart Arrhythmias	31.84%	24.84%
21	Protein-Calorie Malnutrition	15.27%	8.46%
18	Diabetes with Ophthalmologic or Unspecified Manifestation1	7.87%	1.49%
55	Major Depressive, Bipolar, and Paranoid Disorders	10.87%	5.84%
10	Breast, Prostate, Colorectal and Other Cancers and Tumors	7.98%	4.93%
119	Proliferative Diabetic Retinopathy and Vitreous Hemorrhage	2.34%	0.06%
7	Metastatic Cancer and Acute Leukemia	7.55%	5.78%
38	Rheumatoid Arthritis and Inflammatory Connective Tissue Disease	5.55%	3.99%
100	Hemiplegia/Hemiparesis	5.37%	4.00%
132	Nephritis	3.13%	1.92%
164	Major Complications of Medical Care and Trauma	6.75%	5.58%
81	Acute Myocardial Infarction	4.28%	3.34%
104	Vascular Disease with Complications	3.82%	2.94%

Difference in occurrence rate for Kaiser Med. Mngd Care vs CA Med. Mngd care FY 2010



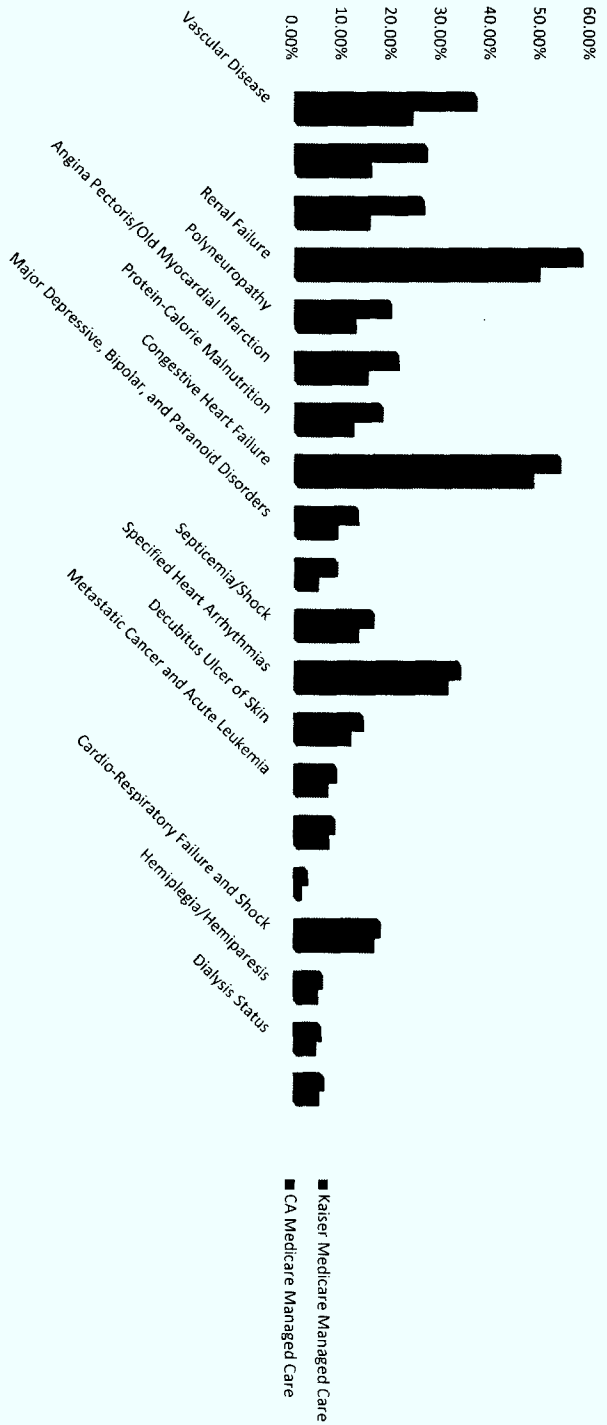
HCC CATEG	HCC Desc	Kaiser Medicare Managed Care	CA Medicare Managed Care
15	Diabetes with Renal or Peripheral CirculatoryManifestation1	24.70%	13.93%
105	Vascular Disease	31.77%	21.06%
16	Diabetes with Neurologic or Other SpecifiedManifestation1	23.80%	13.62%
131	Renal Failure	54.47%	46.07%
71	Polynuropathy	18.01%	10.96%
83	Angina Pectoris/Old Myocardial Infarction	20.51%	14.25%
80	Congestive Heart Failure	51.14%	45.73%
21	Protein-Calorie Malnutrition	15.27%	10.28%
55	Major Depressive, Bipolar, and Paranoid Disorders	10.87%	6.84%
18	Diabetes with Ophthalmologic or UnspecifiedManifestation1	7.87%	4.11%
148	Decubitus Ulcer of Skin	13.49%	11.32%
92	Specified Heart Arrhythmias	31.84%	29.92%
2	Septicemia/Shock	12.13%	10.59%
10	Breast, Prostate, Colorectal and Other Cancers and Tumors	7.98%	6.51%
7	Metastatic Cancer and Acute Leukemia	7.55%	6.12%
119	Proliferative Diabetic Retinopathy and VitreousHemorrhage	2.34%	1.06%
100	Hemiplegia/Hemiparesis	5.37%	4.26%
130	Dialysis Status	4.81%	3.76%
38	Rheumatoid Arthritis and Inflammatory ConnectiveTissue Disease	5.55%	4.56%
149	Chronic Ulcer of Skin, Except Decubitus	3.24%	2.44%

Difference in occurrence rate for Kaiser Med. Mngd Care vs CA Traditional care FY 2011



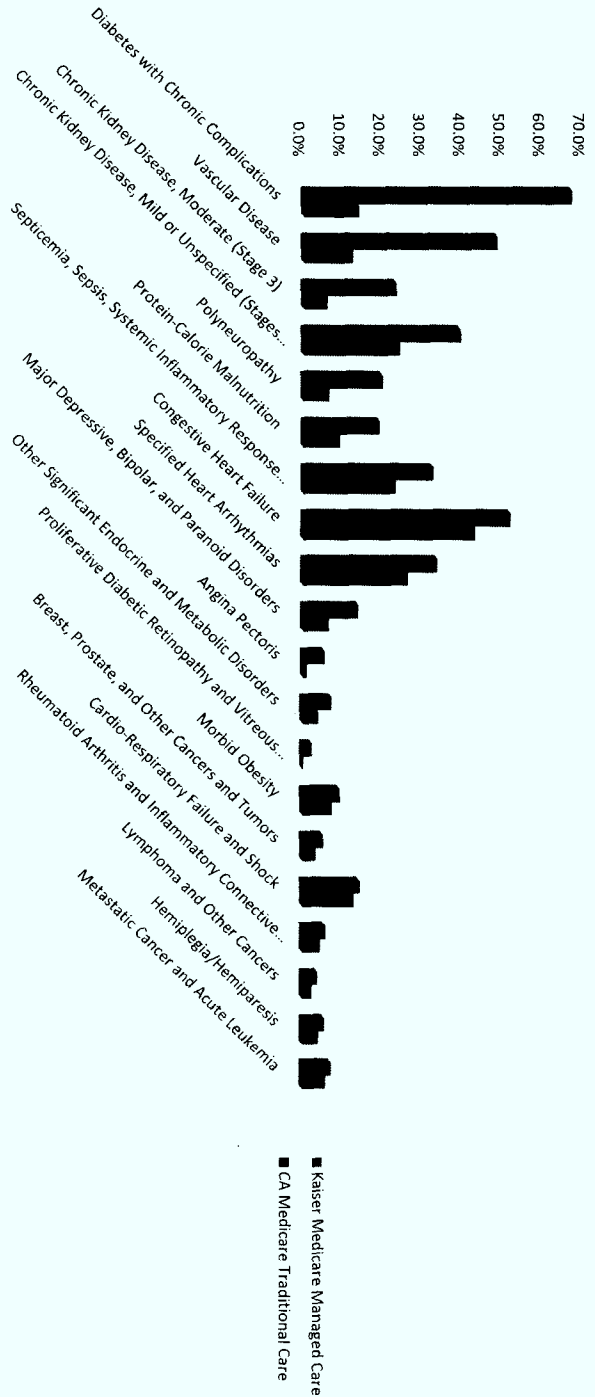
HCC CATEG	HCC Desc	Kaiser Medicare Managed Care	CA Medicare Traditional Care
105	Vascular Disease	36.17%	12.03%
15	Diabetes with Renal or Peripheral Circulatory Manifestation ¹	26.27%	4.79%
16	Diabetes with Neurologic or Other Specified Manifestation ¹	25.60%	5.67%
131	Renal Failure	57.43%	43.89%
83	Angina Pectoris/Old Myocardial Infarction	20.48%	7.44%
71	Polynuropathy	19.03%	6.03%
80	Congestive Heart Failure	53.07%	43.00%
21	Protein-Calorie Malnutrition	17.16%	8.79%
92	Specified Heart Arrhythmias	32.90%	25.66%
18	Diabetes with Ophthalmologic or Unspecified Manifestation ¹	11.66%	8.79%
55	Major Depressive, Bipolar, and Paranoid Disorders	8.06%	1.52%
2	Septicemia/Shock	12.42%	6.04%
10	Breast, Prostate, Colorectal and Other Cancers and Tumors	15.50%	12.38%
7	Metastatic Cancer and Acute Leukemia	7.83%	4.92%
119	Proliferative Diabetic Retinopathy and Vitreous Hemorrhage	8.12%	5.78%
79	Cardio-Respiratory Failure and Shock	2.31%	0.07%
164	Major Complications of Medical Care and Trauma	16.92%	15.03%
38	Rheumatoid Arthritis and Inflammatory Connective Tissue Disease	6.89%	5.32%
100	Hemiplegia/Hemiparesis	5.58%	4.11%
132	Nephritis	5.36%	4.04%
		3.03%	1.96%

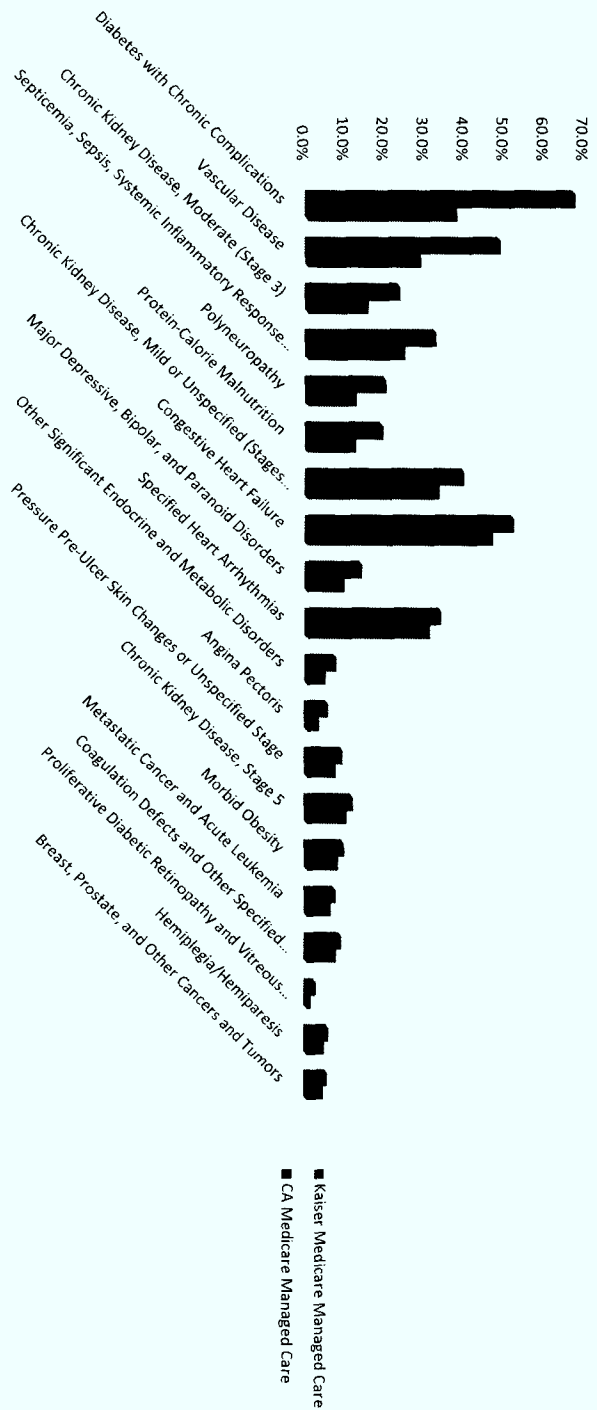
Difference in occurrence rate for Kaiser Med. Mngd Care vs CA Med. Mngd care FY 2011



HCC CATEG	HCC Desc	Kaiser Medicare Managed Care	CA Medicare Managed Care
105	Vascular Disease	36.17%	23.33%
15	Diabetes with Renal or Peripheral Circulatory Manifestation ¹	26.27%	14.92%
16	Diabetes with Neurologic or Other Specified Manifestation ¹	25.60%	14.63%
131	Renal Failure	57.43%	48.79%
71	Polynuropathy	19.03%	11.78%
83	Angina Pectoris/Old Myocardial Infarction	20.48%	14.16%
21	Protein-Calorie Malnutrition	17.16%	11.37%
80	Congestive Heart Failure	53.07%	47.50%
55	Major Depressive, Bipolar, and Paranoid Disorders	12.42%	8.08%
18	Diabetes with Ophthalmologic or Unspecified Manifestation ¹	8.06%	4.25%
2	Septicemia/Shock	15.50%	12.33%
92	Specified Heart Arrhythmias	32.90%	30.27%
148	Decubitus Ulcer of Skin	13.43%	10.92%
7	Metastatic Cancer and Acute Leukemia	8.12%	6.40%
10	Breast, Prostate, Colorectal and Other Cancers and Tumors	7.83%	6.48%
119	Proliferative Diabetic Retinopathy and Vitreous Hemorrhage	2.31%	1.05%
79	Cardio-Respiratory Failure and Shock	16.92%	15.67%
100	Hemiplegia/Hemiparesis	5.36%	4.28%
130	Dialysis Status	5.04%	3.98%
38	Rheumatoid Arthritis and Inflammatory Connective Tissue Disease	5.58%	4.60%

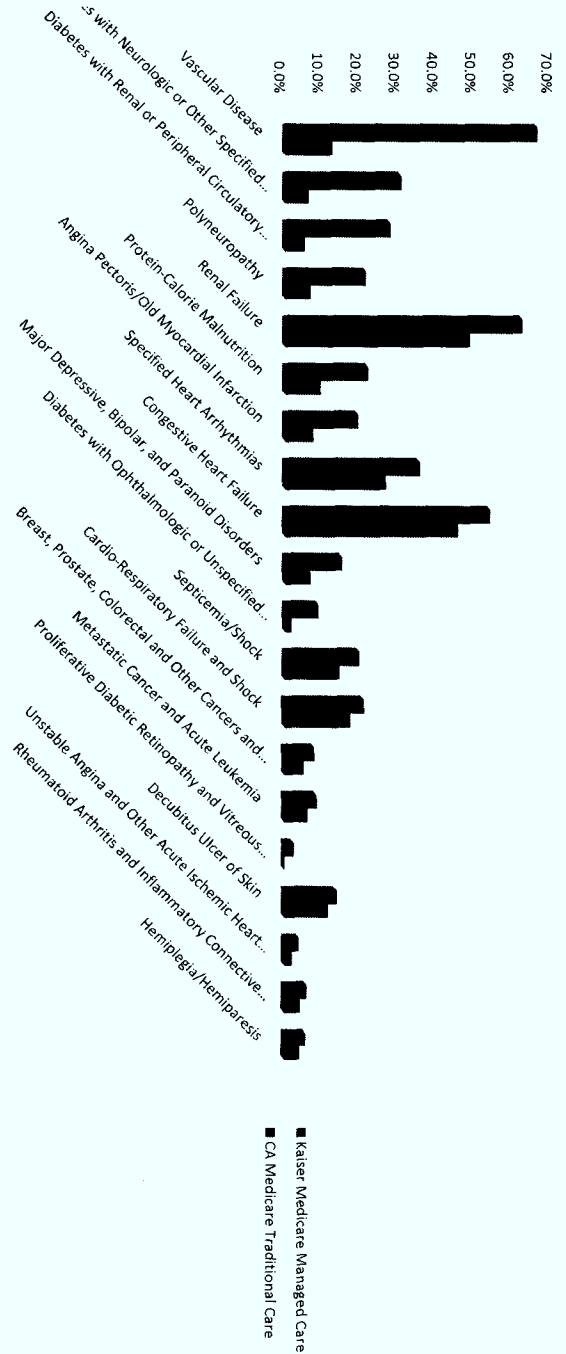
Difference in occurrence rate for Kaiser Med. Mngd Care vs CA Med. Trad Care FY 2012





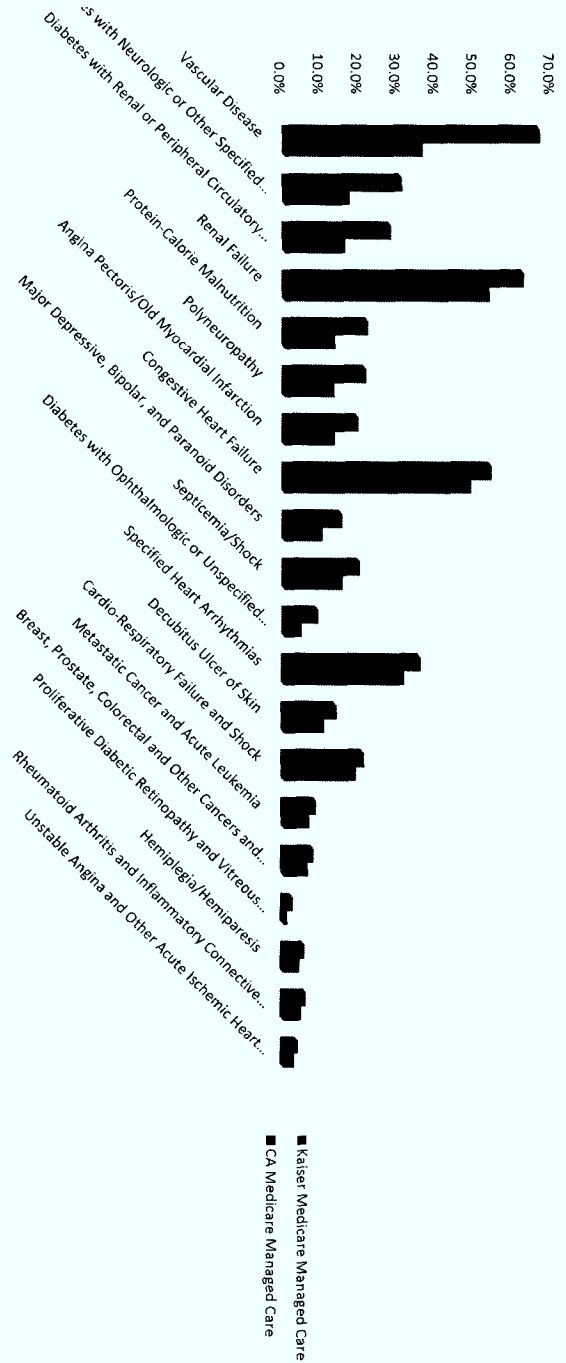
HCC CATEG	HCC Desc	Kaiser Medicare Managed Care	CA Medicare Managed Care
18	Diabetes with Chronic Complications	67.0%	37.3%
108	Vascular Disease	48.4%	28.3%
138	Chronic Kidney Disease, Moderate (Stage 3)	23.1%	15.0%
2	Septicemia, Sepsis, Systemic Inflammatory Response Syndrome/Shock	32.3%	24.3%
75	Polynuropathy	19.6%	12.1%
21	Protein-Calorie Malnutrition	18.8%	12.0%
139	Chronic Kidney Disease, Mild or Unspecified (Stages 1-2 or Unspecified)	39.1%	32.9%
85	Congestive Heart Failure	51.5%	46.3%
58	Major Depressive, Bipolar, and Paranoid Disorders	13.6%	9.1%
96	Specified Heart Arrhythmias	33.3%	30.5%
23	Other Significant Endocrine and Metabolic Disorders	7.2%	4.5%
88	Angina Pectoris	5.3%	2.9%
160	Pressure Pre-Ulcer Skin Changes or Unspecified Stage	9.0%	7.0%
136	Chronic Kidney Disease, Stage 5	11.5%	9.8%
22	Morbid Obesity	9.3%	7.7%
8	Metastatic Cancer and Acute Leukemia	7.2%	5.9%
48	Coagulation Defects and Other Specified Hematological Disorders	8.6%	7.3%
122	Proliferative Diabetic Retinopathy and Vitreous Hemorrhage	2.2%	1.0%
103	Hemiplegia/Hemiparesis	5.4%	4.3%
12	Breast, Prostate, and Other Cancers and Tumors	5.2%	4.1%

Difference in occurrence rate for Kaiser Med. Mingd Care vs CA Med. Trad Care FY 2013



HCC CATEG	HCC Desc	Kaiser Medicare Managed Care	CA Medicare Traditional Care
HCC105	Vascular Disease	66.1%	12.3%
HCC16	Diabetes with Neurologic or Other Specified Manifestation 1,4	30.4%	6.1%
HCC15	Diabetes with Renal or Peripheral Circulatory Manifestation 1,4	27.6%	5.1%
HCC71	Polynuropathy	21.1%	6.6%
HCC131	Renal Failure	62.1%	48.4%
HCC21	Protein-Calorie Malnutrition	21.7%	9.2%
HCC83	Angina Pectoris/Old Myocardial Infarction	19.1%	7.2%
HCC92	Specified Heart Arrhythmias	35.3%	26.4%
HCC80	Congestive Heart Failure	53.7%	45.2%
HCC55	Major Depressive, Bipolar, and Paranoid Disorders	14.9%	6.6%
HCC18	Diabetes with Ophthalmologic or Unspecified Manifestation 1,4	8.7%	1.6%
HCC2	Septicemia/Shock	19.5%	14.3%
HCC79	Cardio-Respiratory Failure and Shock	20.8%	17.2%
HCC10	Breast, Prostate, Colorectal and Other Cancers and Tumors	7.8%	4.9%
HCC7	Metastatic Cancer and Acute Leukemia	8.5%	6.0%
HCC119	Proliferative Diabetic Retinopathy and Vitreous Hemorrhage	2.5%	0.1%
HCC148	Decubitus Ulcer of Skin	13.7%	11.4%
HCC82	Unstable Angina and Other Acute Ischemic Heart Disease	3.8%	2.0%
HCC38	Rheumatoid Arthritis and Inflammatory Connective Tissue Disease	5.9%	4.2%
HCC100	Hemiplegia/Hemiparesis	5.5%	4.0%

Difference in occurrence rate for Kaiser Med. Mngd Care vs CA Med. Mngd Care FY 2013



HCC CATEG	HCC Desc	Kaiser Medicare Managed Care	CA Medicare Managed Care
HCC105	Vascular Disease	66.1%	35.8%
HCC16	Diabetes with Neurologic or Other Specified Manifestation 1,4	30.4%	16.7%
HCC15	Diabetes with Renal or Peripheral Circulatory Manifestation 1,4	27.6%	15.5%
HCC131	Renal Failure	62.1%	53.0%
HCC21	Protein-Calorie Malnutrition	21.7%	13.1%
HCC71	Polynuropathy	21.1%	12.8%
HCC83	Angina Pectoris/Old Myocardial Infarction	19.1%	13.0%
HCC80	Congestive Heart Failure	53.7%	48.3%
HCC55	Major Depressive, Bipolar, and Paranoid Disorders	14.9%	9.8%
HCC2	Septicemia/Shock	19.5%	15.0%
HCC18	Diabetes with Ophthalmologic or Unspecified Manifestation 1,4	8.7%	4.4%
HCC92	Specified Heart Arrhythmias	35.3%	31.2%
HCC148	Decubitus Ulcer of Skin	13.7%	10.3%
HCC79	Cardio-Respiratory Failure and Shock	20.8%	18.6%
HCC7	Metastatic Cancer and Acute Leukemia	8.5%	6.7%
HCC10	Breast, Prostate, Colorectal and Other Cancers and Tumors	7.8%	6.4%
HCC19	Proliferative Diabetic Retinopathy and Vitreous Hemorrhage	2.5%	1.1%
HCC100	Hemiplegia/Hemiparesis	5.5%	4.3%
HCC38	Rheumatoid Arthritis and Inflammatory Connective Tissue Disease	5.9%	4.6%
HCC82	Unstable Angina and Other Acute Ischemic Heart Disease	3.8%	2.9%

EXHIBIT

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PRIME HEALTHCARE SERVICES
HCC CODING - KAISER VS. ALL OTHER CALIFORNIA HOSPITALS
BASED ON 2011 OSHPD DATA

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Study	Author	Year	Design	Population	Intervention	Comparison	Outcome	Effect Size	Quality
1	Smith et al.	2015	RCT	100	100	100	100	100	100
2	Johnson et al.	2016	RCT	100	100	100	100	100	100
3	Williams et al.	2017	RCT	100	100	100	100	100	100
4	Brown et al.	2018	RCT	100	100	100	100	100	100
5	Miller et al.	2019	RCT	100	100	100	100	100	100
6	Wilson et al.	2020	RCT	100	100	100	100	100	100
7	Moore et al.	2021	RCT	100	100	100	100	100	100
8	Taylor et al.	2022	RCT	100	100	100	100	100	100
9	Anderson et al.	2023	RCT	100	100	100	100	100	100
10	Thomas et al.	2024	RCT	100	100	100	100	100	100
11	White et al.	2025	RCT	100	100	100	100	100	100
12	Green et al.	2026	RCT	100	100	100	100	100	100
13	Black et al.	2027	RCT	100	100	100	100	100	100
14	Gray et al.	2028	RCT	100	100	100	100	100	100
15	Wright et al.	2029	RCT	100	100	100	100	100	100
16	Scott et al.	2030	RCT	100	100	100	100	100	100
17	Kim et al.	2031	RCT	100	100	100	100	100	100
18	Foster et al.	2032	RCT	100	100	100	100	100	100
19	Reed et al.	2033	RCT	100	100	100	100	100	100
20	Cox et al.	2034	RCT	100	100	100	100	100	100
21	Hughes et al.	2035	RCT	100	100	100	100	100	100
22	Wells et al.	2036	RCT	100	100	100	100	100	100
23	Albright et al.	2037	RCT	100	100	100	100	100	100
24	Simmons et al.	2038	RCT	100	100	100	100	100	100
25	Stevens et al.	2039	RCT	100	100	100	100	100	100
26	Harmon et al.	2040	RCT	100	100	100	100	100	100
27	Tracy et al.	2041	RCT	100	100	100	100	100	100
28	Wallerstein et al.	2042	RCT	100	100	100	100	100	100
29	Becker et al.	2043	RCT	100	100	100	100	100	100
30	Carroll et al.	2044	RCT	100	100	100	100	100	100
31	Chen et al.	2045	RCT	100	100	100	100	100	100
32	Cheung et al.	2046	RCT	100	100	100	100	100	100
33	Cohen et al.	2047	RCT	100	100	100	100	100	100
34	Condon et al.	2048	RCT	100	100	100	100	100	100
35	Cook et al.	2049	RCT	100	100	100	100	100	100
36	Cox et al.	2050	RCT	100	100	100	100	100	100
37	Craig et al.	2051	RCT	100	100	100	100	100	100
38	Crawford et al.	2052	RCT	100	100	100	100	100	100
39	Crawford et al.	2053	RCT	100	100	100	100	100	100
40	Crawford et al.	2054	RCT	100	100	100	100	100	100
41	Crawford et al.	2055	RCT	100	100	100	100	100	100
42	Crawford et al.	2056	RCT	100	100	100	100	100	100
43	Crawford et al.	2057	RCT	100	100	100	100	100	100
44	Crawford et al.	2058	RCT	100	100	100	100	100	100
45	Crawford et al.	2059	RCT	100	100	100	100	100	100
46	Crawford et al.	2060	RCT	100	100	100	100	100	100
47	Crawford et al.	2061	RCT	100	100	100	100	100	100
48	Crawford et al.	2062	RCT	100	100	100	100	100	100

EXHIBIT 5

[illegible]

United Healthcare of California (UHC of California)							Kaiser	
Year	Title XVIII - Medicare Premiums	Medicare Risk Members	PMMPM	% Increase in PMMPM	Coding Adjustment Factor Applied	Kaiser PMMPM	Kaiser Medicare Risk Members	Excess Payment for Kaiser (Adjusted for the Risk Members)
2007	\$3,857,038,000.00	342,173	\$939.35	6%		\$1,074.14	693,133	\$1,121,159,293.92
2008	\$3,959,126,000.00	331,644	\$994.82	6%		\$1,161.02	704,200	\$1,404,429,487.33
2009	\$4,103,447,000.00	323,873	\$1,055.83	6%		\$1,179.57	740,173	\$1,099,049,733.44
2010	\$3,848,251,000.00	303,747	\$1,055.77	0%	-3.41%	\$1,153.93	782,182	\$921,312,571.38
2011	\$3,990,628,000.00	307,889	\$1,080.10	2%	-3.41%	\$1,114.87	825,836	\$344,533,588.52
2012	\$4,326,863,000.00	326,203	\$1,105.36	2%	-3.41%	\$1,158.46	894,377	\$569,881,724.63
2013	\$4,011,753,000.00	330,237	\$1,012.34	-8%	-3.41%	\$1,175.30	926,127	\$1,810,985,066.47
Total								\$7,271,351,465.70
Total for 2008 - 2013								\$6,150,192,173.78

Inter Valley Health Plan							Kaiser	
Year	Title XVIII - Medicare Premiums	Medicare Risk Members	PMMPM	% Increase in PMMPM	Coding Adjustment Factor	Kaiser PMMPM	Kaiser Medicare Risk Members	Excess Payment for Kaiser (Adjusted for the Risk Members)
2007	\$131,208,859.00	12,683	\$662.10			\$1,074.14	693,133	\$1,763,646,921.61
2008	\$123,870,625.00	12,248	\$842.79	-2%		\$1,161.02	704,200	\$2,689,129,874.84
2009	\$130,157,850.00	12,258	\$884.85	5%		\$1,179.57	740,173	\$2,617,684,804.86
2010	\$143,336,619.00	14,146	\$844.39	-5%	3.41%	\$1,153.93	782,182	\$2,905,398,147.56
2011	\$169,869,477.00	16,558	\$854.92	1%	3.41%	\$1,114.87	825,836	\$2,576,105,845.04
2012	\$201,504,134.00	18,341	\$915.55	7%	3.41%	\$1,158.46	894,377	\$2,607,081,126.19
2013	\$225,191,470.00	20,237	\$927.31	1%	3.41%	\$1,175.30	926,127	\$2,755,998,195.89
Total								\$17,915,044,915.99
Total for 2008 - 2013								\$16,151,397,994.38

Aetna Health of California, Inc							Kaiser	
Year	Title XVIII - Medicare Premiums	Medicare Risk Members	PMMPM	% Increase in PMMPM	Coding Adjustment Factor Applied	Kaiser PMMPM	Kaiser Medicare Risk Members	Excess Payment for Kaiser (Adjusted for the Risk Members)
2007	\$257,590,453.00	26,199	\$819.34	16%		\$1,074.14	693,133	\$2,119,350,473.56
2008	\$315,992,442.00	27,592	\$954.36	2%		\$1,161.02	704,200	\$1,746,359,527.09
2009	\$326,103,344.00	27,973	\$971.48	2%		\$1,179.57	740,173	\$1,848,206,016.96
2010	\$328,263,418.00	30,548	\$895.49	-8%	-3.41%	\$1,153.93	782,182	\$2,425,793,239.03
2011	\$296,552,692.00	23,329	\$1,059.31	18%	-3.41%	\$1,114.87	825,836	\$550,574,447.88
2012	\$305,245,507.00	25,049	\$1,082.03	2%	-3.41%	\$1,158.46	894,377	\$820,267,295.93
2013	\$306,598,024.00	25,622	\$997.18	-8%	-3.41%	\$1,175.30	926,127	\$1,979,448,372.06
Total								\$11,489,999,372.52
Total for 2008 - 2013								\$9,370,648,898.96

Blue Cross of California							Kaiser	
Year	Title XVIII - Medicare Premiums	Medicare Risk Members	PMMPM	% Increase in PMMPM	Coding Adjustment Factor Applied	Kaiser PMMPM	Kaiser Medicare Risk Members	Excess Payment for Kaiser (Adjusted for the Risk Members)
2007	\$279,339,000.00	27,404	\$849.45			\$1,074.14	693,133	\$1,868,925,691.47
2008	\$294,051,000.00	28,202	\$868.88	2%		\$1,161.02	704,200	\$2,468,671,610.81
2009	\$301,056,000.00	24,976	\$1,004.48	16%		\$1,179.57	740,173	\$1,555,081,062.78
2010	\$231,918,000.00	20,095	\$961.76	-4%	-3.41%	\$1,153.93	782,182	\$1,803,758,064.64
2011	\$187,492,000.00	14,236	\$1,091.52	14%	-3.41%	\$1,114.87	825,836	\$171,919,799.66
2012	\$154,222,000.00	11,961	\$1,074.48	-2%	-3.41%	\$1,158.46	894,377	\$901,327,305.07
2013	\$143,055,000.00	12,223	\$975.31	-9%	-3.41%	\$1,175.30	926,127	\$2,222,507,293.46
Total								\$10,992,190,827.90
Total for 2008 - 2013								\$9,123,265,136.43

*Healthplans with Title XVIII- Medicare Premiums more than \$100,000,000 per year have been used as comparison

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

I. (a) PLAINTIFFS (Check box if you are representing yourself ☐)

UNITED STATES OF AMERICA, EX REL, NASER AREFI, AJITH KUMAR, AND PRIME HEALTHCARE SERVICES, INC.

DEFENDANTS (Check box if you are representing yourself ☐)

KASIER FOUNDATION HEALTH PLAN, INC., KAISER FOUNDATION HEALTH PLAN OF COLORADO, KAISER FOUNDATION HEALTH PLAN OF GEORGIA, INC., ET AL

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant ALAMEDA

(IN U.S. PLAINTIFF CASES ONLY)

(c) Attorneys (Firm Name, Address and Telephone Number) If you are representing yourself, provide the same information.

MARK S. HARDIMAN (SBN 136602), SALVATORE ZIMMITTI (SBN 245678), NELSON HARDIMAN LLP, 11835 WEST OLYMPIC BLVD, SUITE 900, LOS ANGELES CA 90064, TEL: (310) 721-4571, EMAILS: MHARDIMAN@NELSONHARDIMAN.COM, SZIMMITTI@NELSONHARDIMAN.COM

Attorneys (Firm Name, Address and Telephone Number) If you are representing yourself, provide the same information.

II. BASIS OF JURISDICTION (Place an X in one box only.)

- ☒ 1. U.S. Government Plaintiff ☐ 3. Federal Question (U.S. Government Not a Party)
☐ 2. U.S. Government Defendant ☐ 4. Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES-For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant)

- | | | | | | |
|---|--------------------------------|--------------------------------|---|--------------------------------|--------------------------------|
| Citizen of This State | PTF <input type="checkbox"/> 1 | DEF <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State | PTF <input type="checkbox"/> 4 | DEF <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. ORIGIN (Place an X in one box only.)

- ☒ 1. Original Proceeding ☐ 2. Removed from State Court ☐ 3. Remanded from Appellate Court ☐ 4. Reinstated or Reopened ☐ 5. Transferred from Another District (Specify) ☐ 6. Multi-District Litigation

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check "Yes" only if demanded in complaint.)

CLASS ACTION under F.R.Cv.P. 23: ☐ Yes ☐ No ☒ MONEY DEMANDED IN COMPLAINT: \$ 14,455,832,951

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

FALSE CLAIMS ACT CASE ON BEHALF OF THE UNITED STATES PURSUANT TO 31 U.S.C. SECTION 3729

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES	CONTRACT	REAL PROPERTY CONT.	IMMIGRATION	PRISONER PETITIONS	PROPERTY RIGHTS
<input checked="" type="checkbox"/> 375 False Claims Act	<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 462 Naturalization Application	Habeas Corpus:	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 290 All Other Real Property	TORTS	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 140 Negotiable Instrument	PERSONAL INJURY	PERSONAL PROPERTY	<input type="checkbox"/> 530 General	SOCIAL SECURITY
<input type="checkbox"/> 450 Commerce/ICC Rates/Etc.	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 371 Truth in Lending	Other:	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 470 Racketeer Influenced & Corrupt Org.	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Vet.)	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 863 DIWC/DIWW (405 (g))
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 153 Recovery of Overpayment of Vet. Benefits	<input type="checkbox"/> 330 Fed. Employers' Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 340 Marine	BANKRUPTCY	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 865 RSI (405 (g))
<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 560 Civil Detainee Conditions of Confinement	FEDERAL TAX SUITS
<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 423 Withdrawal 28 USC 157	FORFEITURE/PENALTY	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 891 Agricultural Acts	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 355 Motor Vehicle Product Liability	CIVIL RIGHTS	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
<input type="checkbox"/> 893 Environmental Matters	REAL PROPERTY	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 440 Other Civil Rights	LABOR	
<input type="checkbox"/> 895 Freedom of Info. Act	<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 710 Fair Labor Standards Act	
<input type="checkbox"/> 896 Arbitration	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 720 Labor/Mgmt. Relations	
<input type="checkbox"/> 899 Admin. Procedures Act/Review of Appeal of Agency Decision	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 740 Railway Labor Act	
<input type="checkbox"/> 950 Constitutionality of State Statutes		<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 445 American with Disabilities-Employment	<input type="checkbox"/> 751 Family and Medical Leave Act	
			<input type="checkbox"/> 446 American with Disabilities-Other	<input type="checkbox"/> 790 Other Labor Litigation	
			<input type="checkbox"/> 448 Education	<input type="checkbox"/> 791 Employee Ret. Inc. Security Act	

FOR OFFICE USE ONLY:

Case Number:

CV 15-07050

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
 CIVIL COVER SHEET**

VIII. VENUE: Your answers to the questions below will determine the division of the Court to which this case will be initially assigned. This initial assignment is subject to change, in accordance with the Court's General Orders, upon review by the Court of your Complaint or Notice of Removal.

QUESTION A: Was this case removed from state court? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "no," skip to Question B. If "yes," check the box to the right that applies, enter the corresponding division in response to Question E, below, and continue from there.	STATE CASE WAS PENDING IN THE COUNTY OF: <input type="checkbox"/> Los Angeles, Ventura, Santa Barbara, or San Luis Obispo <input type="checkbox"/> Orange <input type="checkbox"/> Riverside or San Bernardino	INITIAL DIVISION IN CACD IS: Western Southern Eastern	
QUESTION B: Is the United States, or one of its agencies or employees, a PLAINTIFF in this action? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If "no," skip to Question C. If "yes," answer Question B.1, at right.	B.1. Do 50% or more of the defendants who reside in the district reside in Orange Co? <i>check one of the boxes to the right</i> →	<input type="checkbox"/> YES. Your case will initially be assigned to the Southern Division. Enter "Southern" in response to Question E, below, and continue from there. <input checked="" type="checkbox"/> NO. Continue to Question B.2.	
	B.2. Do 50% or more of the defendants who reside in the district reside in Riverside and/or San Bernardino Counties? (Consider the two counties together.) <i>check one of the boxes to the right</i> →	<input type="checkbox"/> YES. Your case will initially be assigned to the Eastern Division. Enter "Eastern" in response to Question E, below, and continue from there. <input checked="" type="checkbox"/> NO. Your case will initially be assigned to the Western Division. Enter "Western" in response to Question E, below, and continue from there.	
QUESTION C: Is the United States, or one of its agencies or employees, a DEFENDANT in this action? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "no," skip to Question D. If "yes," answer Question C.1, at right.	C.1. Do 50% or more of the plaintiffs who reside in the district reside in Orange Co? <i>check one of the boxes to the right</i> →	<input type="checkbox"/> YES. Your case will initially be assigned to the Southern Division. Enter "Southern" in response to Question E, below, and continue from there. <input type="checkbox"/> NO. Continue to Question C.2.	
	C.2. Do 50% or more of the plaintiffs who reside in the district reside in Riverside and/or San Bernardino Counties? (Consider the two counties together.) <i>check one of the boxes to the right</i> →	<input type="checkbox"/> YES. Your case will initially be assigned to the Eastern Division. Enter "Eastern" in response to Question E, below, and continue from there. <input type="checkbox"/> NO. Your case will initially be assigned to the Western Division. Enter "Western" in response to Question E, below, and continue from there.	
QUESTION D: Location of plaintiffs and defendants?	A. Orange County	B. Riverside or San Bernardino County	C. Los Angeles, Ventura, Santa Barbara, or San Luis Obispo County
Indicate the location(s) in which 50% or more of <i>plaintiffs who reside in this district</i> reside. (Check up to two boxes, or leave blank if none of these choices apply.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Indicate the location(s) in which 50% or more of <i>defendants who reside in this district</i> reside. (Check up to two boxes, or leave blank if none of these choices apply.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
D.1. Is there at least one answer in Column A? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "yes," your case will initially be assigned to the SOUTHERN DIVISION. Enter "Southern" in response to Question E, below, and continue from there. If "no," go to question D2 to the right. →	D.2. Is there at least one answer in Column B? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "yes," your case will initially be assigned to the EASTERN DIVISION. Enter "Eastern" in response to Question E, below. If "no," your case will be assigned to the WESTERN DIVISION. Enter "Western" in response to Question E, below. ↓		
QUESTION E: Initial Division? Enter the initial division determined by Question A, B, C, or D above: →	INITIAL DIVISION IN CACD WESTERN DIVISION		
QUESTION F: Northern Counties? Do 50% or more of plaintiffs or defendants in this district reside in Ventura, Santa Barbara, or San Luis Obispo counties? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

IX(a). IDENTICAL CASES: Has this action been previously filed in this court?

☒ NO

☐ YES

If yes, list case number(s): _____

IX(b). RELATED CASES: Is this case related (as defined below) to any civil or criminal case(s) previously filed in this court?

☒ NO

☐ YES

If yes, list case number(s): _____

Civil cases are related when they (check all that apply):

- ☐ A. Arise from the same or a closely related transaction, happening, or event;
- ☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
- ☐ C. For other reasons would entail substantial duplication of labor if heard by different judges.

Note: That cases may involve the same patent, trademark, or copyright is not, in itself, sufficient to deem cases related.

A civil forfeiture case and a criminal case are related when they (check all that apply):

- ☐ A. Arise from the same or a closely related transaction, happening, or event;
- ☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
- ☐ C. Involve one or more defendants from the criminal case in common and would entail substantial duplication of labor if heard by different judges.

X. SIGNATURE OF ATTORNEY

(OR SELF-REPRESENTED LITIGANT): M. HARDIMAN

DATE: SEPTEMBER 4, 2015

Notice to Counsel/Parties: The submission of this Civil Cover Sheet is required by Local Rule 3-1. This Form CV-71 and the information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. For more detailed instructions, see separate instruction sheet (CV-071A).

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405 (g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))